

LEGISLATIVE COUNCIL

Wednesday 10 May 2006

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

The Clerk of the Parliaments offered the Prayers.

APPROPRIATION (BUDGET VARIATIONS) BILL

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

Motion by the Hon. Michael Costa agreed to:

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

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

BEACONSFIELD GOLDMINE RESCUE

Motion by the Hon. Duncan Gay agreed to:

That this House:

- (a) joins in the jubilation of the town of Beaconsfield and surrounding areas on the successful rescue of Brant Webb and Todd Russell from the Beaconsfield Gold Mine,
- (b) congratulates all of the members of the hard working mine rescue team,
- (c) thanks the New South Wales emergency service workers who gave up their time to be members of the mine rescue team, and
- (d) offers its condolences to the family of Larry Knight, whose funeral was held on Tuesday 9 May 2006.

SNOWY HYDRO LIMITED

Production of Documents: Order

Motion by Ms Sylvia Hale agreed to:

That under Standing Order 52 there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents created since 2002 in the possession, custody or control of the Treasurer, NSW Treasury, the Minister for Natural Resources, the Department of Natural Resources, the Minister for the Environment, the Department of Environment and Conservation, including the Environmental Protection Authority and the National Parks and Wildlife Service, or the Minister for Finance relating to Snowy Hydro Limited:

- (a) any document relating to the implementation of, and the effects of the implementation of, water licences,
- (b) any report created by Snowy Hydro Limited relating to the impact of water flows on electricity generation,
- (c) any document regarding the removal of Snowy Hydro Limited materials or equipment in national parks,
- (d) any document regarding capital raising or privatisation of Snowy Hydro Limited, and
- (e) any document which records or refers to the production of documents as a result of this order of the House.

DARKINJUNG LOCAL ABORIGINAL LAND COUNCIL

Production of Documents: Order

Motion by the Hon. Michael Gallacher agreed to:

That under Standing Order 52 there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents in the possession, custody or control of the Minister for Aboriginal Affairs or the Department of Aboriginal Affairs relating to the Darkinjung Local Aboriginal Land Council [DLALC]:

- (a) all documents relating to the appointment of an administrator to DLALC in 2006,
- (b) all investigators' reports created in 2004, 2005 or 2006 relating to the DLALC including the August 2005 report by Tim Kelly of Deloitte,
- (c) all auditors' reports created in 2004, 2005 or 2006, including the draft report of Lawler Partners submitted to the Minister before Christmas 2005, any subsequent version of that report, and any documents relating to auditors' reports, and
- (d) any document which records or refers to the production of documents as a result of this order of the House.

REDFERN WATERLOO STREET TEAM EVALUATION

Production of Documents: Order

Motion by Ms Sylvia Hale agreed to:

That under Standing Order 52 there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents created since January 2005 in the possession, custody or control of the Premier's Department, the Minister for Community Services, the Department of Community Services, the Minister for Redfern Waterloo or the Redfern-Waterloo Authority:

- (a) any document relating to the evaluation of the Redfern Waterloo Street Team, and in particular the document produced by R.P.R. Consulting entitled "Evaluation of the Redfern Waterloo Street Team",
- (b) any document relating to the financial management or auditing of the Redfern Waterloo Street Team, and
- (c) any document which records or refers to the production of documents as a result of this order of the House.

PETITIONS

Batemans and Port Stephens Marine Parks

Petition opposing the creation of the Batemans and Port Stephens marine parks until the fishing industry and the community are adequately consulted, a socio-economic study is undertaken, and real data on endangered species is made available, received from **the Hon. Duncan Gay**.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 1 to 7 postponed on motion by the Hon. Tony Kelly.

APPROPRIATION (BUDGET VARIATIONS) BILL

Second Reading

The Hon. MICHAEL COSTA (Treasurer, Minister for Infrastructure, and Minister for the Hunter) [11.09 a.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Appropriation (Budget Variations) Bill 2006 is a key part of the annual budget process.

The 2005-06 Budget was delivered before the start of this financial year. Throughout the year, the Government becomes aware of the requirement to cater for unforeseen and urgent expenditures that were not forecast at Budget time. This Appropriation (Budget Variations) Bill 2006 ensures that variations to the 2005-06 Budget are appropriated by Parliament.

The Bill ensures that there is a transparent process for examining this expenditure.

And so, the practice of seeking approval for supplementary funding to cover expenditure not provided for in the annual Appropriation Act has now become an important part of the annual budget process.

This is a process that has been endorsed by the Auditor-General as well as the Legislative Council's General Purpose Standing Committee No 1 in its report on appropriation processes.

The Parliament is aware that it is not always possible to seek Parliament's authority in advance for unforeseen and urgent expenditure, and has previously established provisions for such situations. This includes the Treasurer's Advance and Section 22 of the *Public Finance and Audit Act 1983*.

The Treasurer's Advance is an amount made available to the Treasurer in the annual Appropriation Act to be used for unforeseen and urgent expenditure. This amount is available for both recurrent services and capital works and services.

In addition, Section 22 of the *Public Finance and Audit Act 1983* allows the Governor to approve expenditure for the exigencies of Government from the Consolidated Fund, in anticipation of appropriation by Parliament.

The Bill has four key features:

Firstly, it provides an account to Parliament on how the Treasurer's Advance has been applied for recurrent and capital expenditure;

Secondly, it seeks an adjustment of the 2005-06 Advance prior to the end of the current financial year;

Thirdly, it seeks appropriations to cover expenditure approved by the Governor under Section 22 of the *Public Finance and Audit Act 1983*; and

Finally, it seeks appropriation for payments which are intended to be made in the current financial year where no provision was made in the annual Appropriation Bill.

Schedule 1 of the Bill covers appropriations for 2005-06, and schedule 2 covers payments made in 2004-05. The payments from 2004-05 have already been brought to account in the agencies' audited financial statements and have no impact on the published Budget result for that year.

The Government, in presenting further Appropriation Bills, has sought, as far as possible to ensure the Parliament has the opportunity to scrutinise anticipated additional funding requirements prior to expenditures being incurred.

The Appropriation (Budget Variations) Bill 2006, in respect of the 2005-06 financial year seeks:

- appropriations of \$206.335 million in adjustment of the Advance to the Treasurer;
- \$20.237 million for recurrent services approved by the Governor under Section 22 of the *Public Finance and Audit Act 1983*;
- appropriation of \$1 billion to reduce the States superannuation liabilities; and
- additional appropriation of \$52.033 million for recurrent services.

Schedule 1 of the Bill has a full account of how the Treasurer's Advance has been applied this year.

The Treasurer's Advance payments in 2005-06 highlight the commitment of the Iemma Government to ensuring appropriate services for the community, and includes:

- \$36 million for ageing, disability and home care services;
- \$31.446 million to the development of Parramatta Justice Precinct on the former Hospital site;
- \$27.35 million to Teachers award increases;
- \$16.155 million to Police for Information Management and Technology Strategic Plan implementation;
- \$15 million for drought assistance programs;
- \$13.2 million for timber restructure initiatives;
- \$13 million for post and priority action schools program; and
- \$5 million to increase elective surgery activity for low-complexity procedures.

The Bill also includes under Section 22 of the *Public Finance and Audit Act 1983* for 2005-06:

- \$10.237 million for further drought assistance and in particular NSW contribution to the national Exceptional Circumstances scheme; and
- \$10 million for timber restructure initiatives in the Brigalow and Nandewar regions.

The Self Insurance Corporation will provide a return of capital distribution of \$1 billion to the General Government Liability Management Fund in order to reduce the State's unfunded superannuation liabilities. These funds are a result of lower public sector workers compensation and public liability claim costs due to the Government's workers compensation and tort law reform

legislation, and higher than expected investment returns. An appropriation is sought for the \$1 billion to be applied to reducing the State's unfunded superannuation liabilities.

Additional appropriations for recurrent services include:

- \$17 million for the First Home Owner Grant Scheme;
- \$16.433 million to the Department of Health for Immunisation and Pathways Programs; and
- \$10.6 million towards training additional police recruits.

The Bill also seeks appropriations for payments made during the 2004-05 financial year approved by the Governor under Section 22 of the Public Finance and Audit Act, and reports the payments made under the Treasurer's Advance.

Schedule 2 of the Bill details the funding made in 2004-05 and includes an adjustment to the superannuation guarantee charge payments, additional interest costs on borrowings, additional Department of Corrective Services funding and towards increasing police officer numbers.

Each of the payments made in 2004-05 have been included in the audited financial statements of the relevant agencies for that year.

The practice of introducing further Appropriation Bills has enhanced accountability for the expenditure of public moneys from the Consolidated Fund.

It is further evidence of the Government's commitment to transparent and full financial reporting to the Parliament and the community.

I commend the Bill to the House.

The Hon. PATRICIA FORSYTHE [11.09 a.m.]: The contrast between the Iemma Labor Government and the Howard Liberal Government could not be more stark. On the one hand the Liberal-National Government in Canberra is a can-do government that delivers \$36.7 billion in tax cuts but the Government in New South Wales is always looking for excuses as to why it cannot help the people of New South Wales. Today we have an opportunity in the Appropriation (Budget Variations) Bill to again focus on the economic record of the Carr and Iemma governments and examine their legacy for the people of the South Wales after 11 years in government.

We will see that it lies in stark contrast to the positive approach of the Liberal Government in Canberra—a Liberal Government that forecasts a budget surplus of \$10.8 billion at the Federal level versus a government in New South Wales with a budget deficit forecast for the next budget of the order of \$533 million. It is a case on the one hand of a government that is intent on helping the people of Australia versus a government that has all of the reasons and all of the excuses for why that is not possible in its case.

Today we have before us the Appropriation (Budget Variations) Bill. Each year an appropriation bill is part of the budget process whereby the Government explains to the people why the Treasurer's Advance that is allocated each year never seems to be enough to meet unforeseen expenditure. The Coalition accepts the principle that there will always be items of expenditure that cannot be foreseen at the time a budget is introduced into the Parliament: That is why money is set aside as the Treasurer's Advance, but for this Government it is never enough. While the Treasurer, in a second reading speech, lauds the Government's accountability to the people by telling the people how the Treasurer's Advance has been spent over the past year, he simultaneously asks for more money. In addition, part of the funding is a request for capital and recurrent expenditure beyond the budget and for which now it seeks additional funding under section 22 of the Public Finance and Audit Act.

This is a case of the Government's chickens coming home to roost. Much of what is being sought in the bill should have been foreseen as a consequence of inadequate social and economic policy. The bill seeks additional funds. Whereas the Government had told the community that the items of expenditure had been included in the scope of the budget, we now see from this bill that that is not the situation. I will not deal in fine detail with each of the portfolios because some of my colleagues will examine the portfolios they have worked on in great detail. I will give a brief overview in relation to some aspects of this bill.

One always needs to be sceptical when on Thursday afternoon the first the Opposition hears of a bill is the appearance in the House of a Minister—usually in the other place, late in the day at a time normally set aside for private member's statements—who introduces a bill. One needs to be sceptical, especially when the bill is introduced after the day's news events have settled, and the media has largely directed its attention away from Parliament because the proceedings have moved to private member's statements. In those circumstances, one needs to look closely at what the Government is up to.

The Hon. Duncan Gay: This one is under the Federal budget and mine rescue.

The Hon. PATRICIA FORSYTHE: I was coming to that. This bill was introduced last Thursday when it would have been well known to the Government that yesterday was when the Federal Government would deliver its budget, although it was perhaps unforeseeable that the Beaconsfield mine rescue would have taken place on that day. In any event, it was to be a day of good news when the New South Wales Government could slip in something under the radar. But that was not lost on the Opposition. The Opposition has examined the circumstances closely and we were even more sceptical when we became aware that it was the intention of the Government not only to pass the bill in the lower House yesterday but to take it through all stages in this House yesterday.

Some of my colleagues in the other place were conscious of the Government's tactics and took the opportunity to make some relevant points in relation to some of the portfolios and some of their electorates. Today there is an opportunity for a little bit more media focus on what is in the bill. Why would I be sceptical? There are a couple of lines of this bill that the community would be most interested in, particularly the \$600,000-plus of additional revenue that is being sought for the Premier's media unit—in other words, for the spin this Government is very good at. This is not a case of the Government having spent \$600,000, but a request for an additional \$600,000. In other words, the Government could not work within the constraints of its budget to support its extraordinarily elaborate propaganda machine, so the Parliament is being asked to increase that expenditure.

Other areas of expenditure include altered office accommodation, such as in the Office of the Director of Public Prosecutions, which does not relate to providing direct services for the people of New South Wales. The item relates to office accommodation, so when judged by the criterion of adding to the wellbeing of the citizens of New South Wales, it does not do that, even in a tiny measure. However, some important additional budget allocations are not only supported by the Opposition but are a direct consequence of the Opposition forcing the Government to announce the allocation of additional funds. My colleague the Hon. John Ryan will discuss these matters in detail, but I note in particular the allocations of \$36 million in additional funding for improved disability services, \$5 million additional funding for post-school programs and \$6.9 million for a trial to assist people with challenging behaviours within the intellectual disability field.

I highlight those matters because they have been included as items of expenditure as a direct result of the Opposition, with the support of people in the disability sector, shaming and embarrassing the Minister for Disability Services and the Government into finding additional funding. There is a long history in relation to the post-school programs that this House would be well aware of because it is a direct consequence of the inquiry set up by General Purpose Standing Committee No. 2. The inquiry exposed the extent to which parents, carers and supporters of people who have a disability in the post-school programs were disadvantaged by a Government that was intent not on enhancing services as one might expect but on cutting services to the most vulnerable people in our community. I will leave an exposition of that history to my colleague the Hon. John Ryan.

I note in particular as well that the Government has had to find an additional \$27 million for the teachers' award increase. The Opposition applauds teachers being better remunerated because that provides a better incentive to attract good people to the profession and an incentive for good teachers to remain in the profession. But when the increase was announced, the Government said it was able to fund the increase from within its budget. Clearly that was not so. I only hope, as I look towards next year's budget, that this enhancement has not been given at the cost of funding for other areas of education in next year's budget. I hope it represents an acceptance that a strong, robust education system led from the public education sector is one in which teachers are well paid and are working in a system where there is adequate spending on capital works. I hope this is truly an enhancement for the sake of education.

The Government has had to find an additional \$8 million for the Priority Action Schools Program, one of the most important programs within the Education portfolio. It provides additional support for some of our most disadvantaged students in some of our most disadvantaged schools. Those schools may have a high number of non-English-speaking background students or indigenous students, or a higher than average number of students with a disability. The schools may be located in disadvantaged communities, those with a low socioeconomic standing. The Government was intent on cutting that program but, once again, it took the Opposition, along with the Teachers Federation and the parents and citizens associations and other groups across New South Wales, to force the Government to find additional funding. The Opposition certainly welcomes the amount allocated from the Treasurer's Advance to prop-up that program. We hope that that allocation is not a one-off, but is a true recognition of the role of the Priority Action Schools Program.

Additional funding has been allocated for timber restructuring in the Brigalow and Nandewar regions, and that is welcomed. My colleague the Deputy Leader of the Opposition will refer to that. In the context of Natural Resources and Primary Industries the Opposition welcomes funding for drought assistance. We acknowledge that the extent of the drought would have been unforeseen, but one purpose of the Treasurer's Advance is to immediately respond to assist communities suffering a natural disaster. The Treasurer's Advance allows the Government to take immediate action in certain circumstances, and the drought is included in that category. The continuation of the drought and the extent to which it has spread across New South Wales may explain why that funding has been allocated. I remind the House that that is the purpose of the Treasurer's Advance. The Opposition welcomes the Government having identified that need.

I will conclude by commenting on one area amongst myriad others, the further \$8 million that has been appropriated for what is described in the bill as "Operation Seta and Strike Force Enoggera—saturation policing and investigation of incidents at New South Wales beaches". In other words, it is as a direct consequence of incidents at Cronulla and other places in December 2005. Of course, the Opposition would not object to that allocation but it was the local member, Malcolm Kerr, who had regularly over a few years, including at each budget time, reminded the Government that there was an inadequate police presence in the Cronulla region.

That \$8 million is a direct consequence of the Government's own policies over many years not to provide adequate police resourcing in the area. But this is not only about the presence of police in the area, it goes to a much broader issue about the social policy and capacity of police to work with communities and to intervene early in some problems. That is what was missing from the Carr Government's approach and is now missing from the Iemma Government's approach in dealing with many social issues over recent years. A policy was invented over many years following the riots at Redfern, and additional money has now been allocated to NSW Police. Had the Government been more responsive to the local member for Cronulla, that situation may not have arisen. Had the Government heeded his words and his pleas for increased police numbers, that incident may have been avoided.

As a consequence, the Appropriation (Budget Variations) Bill is an attempt by the Government to redress poor social and public policy in many areas. The Opposition acknowledges that in part the bill is about advising us how it has allocated funds to the Treasurer's Advance. In addition, the bill is about seeking more funding, about a government that is not on top of the budget process, a government that is staring at a deficit although it is receiving more revenue from the Federal Government this year than it has ever received. The State Government is facing a deficit at a time when the economy is been buoyant.

That is the contrast between the Federal Government, which has responded to the needs of communities, is economically responsible, and has given 10 years of good economic management to the State, and the State Government, which after 11 years is tired, is focused on a deficit, and is looking at excuses for why it does not deliver for the people of New South Wales. The New South Wales Government is on a death roll, and the people of New South Wales will be able to see—through this bill and the budget to be delivered in a couple of weeks—that the Government has no ideas, no answers, and effectively no hope.

Reverend the Hon. FRED NILE [11.26 a.m.]: The Christian Democratic Party supports the Appropriation (Budget Variations) Bill, which is part of the annual budget process for dealing with unforeseen and urgent expenditures that were not forecast at budget time. Honourable members would know that in recent years there was a referral to General Purpose Standing Committee No. 1, of which I was the Chair, to conduct a very thorough inquiry into the process of bringing in a budget variations bill prior to the final budget being presented to Parliament. The committee received evidence from many key people, including the Auditor General, and it was reassured of the transparency and necessity for this procedure to continue in future years.

The bill has four key features. First, it provides an account to Parliament on how the Treasurer's Advance has been applied for recurrent and capital expenditure. Second, it seeks an adjustment of the 2005-06 Advance prior to the end of the current financial year. Third, it seeks appropriations to cut expenditure approved by the Governor under section 22 of the Public Finance and Audit Act 1983. Fourth, it seeks appropriations for payments that are intended to be made in the current financial year where no provision has been made in the annual appropriation bill.

One important aspect of the Appropriation (Budget Variations) Bill is the advance to the Treasurer. In this bill an adjustment of \$296 million is sought because of, in the main, unforeseen and unexpected calls on the Treasurer's Advance. I am sure that honourable members have no argument with the following categories in the Treasurer's Advance: \$36 million for ageing, disability and home care services; \$31 million for the development

of the Parramatta Justice Precinct on the former hospital site; and \$27 million for teachers' award increases—one area in which the appropriation bill is very important because many changes have been made to the wages of public servants. Our large number of public servants can require millions of dollars in extra expenditure. Ideally that should be anticipated, but we know that that is not always possible with decisions that are made by the respective bodies.

Some \$16 million is appropriated for the police for information management and technology strategic plan implementation. We are pleased that \$15 million will be spent on drought assistance programs. There is an additional \$10 million for further drought assistance, which obviously is needed desperately in certain areas of New South Wales that are suffering prolonged drought conditions. Changes to the timber industry have required the expenditure of \$13 million on restructuring initiatives. Some \$10 million has also been appropriated for timber restructuring initiatives in the Brigalow and Nandewar regions.

We note also that the bill appropriates \$1 billion to reduce the State's superannuation liabilities, and that was made possible by lower public sector workers compensation and public liability claims costs as a result of reforms to workers compensation and tort law—which the Christian Democratic Party supported—as well as greater than expected investment returns. This \$1 billion appropriation will go towards reducing the State's unfunded superannuation liabilities. The Christian Democratic Party are pleased to support the bill before the House.

The Hon. JOHN RYAN [11.31 a.m.]: I will examine some provisions in the Appropriation (Budget Variations) Bill, which is supposed to be about the appropriation of moneys needed to meet expenses that the Government apparently could not have foreseen. However, as my colleague the Hon. Patricia Forsythe said, the bill is littered with examples of expenditure that could have been predicted in advance and that should have been part of the normal government planning and budgetary process. Reverend the Hon. Fred Nile said that the bill improves the transparency of the budget process. I agree that the Government should put a budget variations bill before Parliament. Its previous practice involved spending the funds without obtaining parliamentary approval and then reporting the expenditure to the House in the following budget. It is certainly better to debate these matters openly in the House. In fact, many Auditors-General recommended that course of action but, sadly, it was not acted upon until now.

However, before we thump our chests too loudly in praise of the transparency that this bill brings to the budget process I remind honourable members that the Government has provided only pretty sketchy details about its expenditure of some billions of dollars. Reverend the Hon. Fred Nile should not thump his chest too loudly about his commitment to transparency because I cannot forget what transpired when the Auditor-General asked the House to amend the Public Finance and Audit Act to confirm his capacity to comment on expenditure on government services. I put before the Committee of the Whole a series of amendments that were designed to do exactly what the Auditor-General wanted. Extremely vigorous discussion ensued with the then Treasurer, Michael Egan—however history remembers Michael Egan it will not be for his enormous commitment to transparency and parliamentary accountability. In fact, on the occasion I mention he lampooned the Auditor-General, calling him the "Commentator General".

When Reverend the Hon. Fred Nile and other crossbenchers had the opportunity to put it all on the line for the cause of transparency, they voted with the Government. As a consequence, the Auditor-General was forced to agree to a great deal less than he wanted. I recall that Reverend the Hon. Fred Nile then bragged about his achievements, which made Parliament and the budget process less transparent and accountable. Regardless of which side of the House I sit on, I will always believe that all honourable members should expect, and Parliament should demand of government, a transparent budget process. Honourable members should be able to access budget papers easily and understand them. I defy any honourable member to read some of the budget papers and explain the accounting gobbledegook contained therein. On occasion I ask what some of the more interesting terms—such as "total Crown finance equity"—mean. Sadly, such important terms are rarely defined.

The budget is the most powerful weapon in a government's armoury. It impacts directly on the welfare of the people of New South Wales and thus requires detailed examination and open scrutiny. Honourable members should be able to understand what is in the budget papers and I, for one—regardless of which side of the House I sit on—will continue to champion the cause of making the budget papers and the budget process more open and transparent. Honourable members and the people of New South Wales have the right to expect transparency from government.

I will illustrate my point with an example from the budget of my shadow portfolio that has already been mentioned in this debate. The bill appropriates \$36 million for disability services and all we know about it is

that it is "additional funding for improved disability services". Well, whacko the chook! I wonder what "additional funding for improved disability services" means. One hopes that the Government is improving disability services but how is that an explanation of how \$36 million will be spent? At least we get more detail about expenditure on the Legislature. The bill states that \$646,000—which is a much lesser amount—is to be spent finalising the replacement of a water sprinkler storage tank at Parliament House and on repairs to the adjacent building. At least we know something about that expenditure. But whacked into the middle of this bill is the nefarious sum of \$36 million, which we are told will be spent to improve disability services. Honourable members can search high and low, but they will not find any explanation of where that \$36 million will be spent.

I promise the House that any Minister for Disability Services worth his or her salt who had \$36 million added to the budget would issue press releases monthly announcing where that funding was being spent. I can tell the House where that money will go. It has nothing to do with "improved disability services". Nothing is more deceitful than that line in the budget. That money will be spent to maintain existing disability services. There has been a black hole in the disability services budget for the 15 years that I have been a member of the Legislative Council. Both Coalition and Labor governments have regularly reported that shortfall to the House. But this year it is dressed up deceitfully as "improved disability services".

I have no idea why the Department of Ageing, Disability and Home Care is unable to explain its budget in better detail. But it cannot. For some reason, no matter how many questions honourable members ask during estimates committee and how many reports the Auditor-General produces, we are stuck with this \$36 million shortfall in disability services. I suspect that some of that expenditure is unexpected. From time to time people in crisis approach the department and ask it to provide services for which it has not budgeted. But we have supplemented the disability services budget every year for 15 years. Surely somebody could learn something somewhere and include that additional sum in the department's budget. At least then we would know whether the Department of Ageing, Disability and Home Care is managing its budget properly.

It does not look like it with \$36 million. I am reminded of another \$36 million, an amount in its Home and Community Care budget the department of disability services has been hoarding for six years. Honourable members have not been provided with any information. The Minister and the department have done a snow job on the Opposition in relation to that funding. What will it be spent on? Even the Federal Government has tried to get information about the underspend of \$36 million in the Home and Community Care budget. It took nine months for the Minister for Disability Services to answer a letter from the Federal Minister about an audit of those funds, and to explain where they are. Finally, something pricked the Minister's conscience and he answered the letter. If he had not he might have found himself seated with the new Minister for Health and Ageing, who is responsible for the administration of the Home and Community Care budget, at a recent conference and he might have had to explain where those funds had gone and why he had not answered the letter.

New South Wales is the only State that has underspent its Home and Community Care budget. As honourable members know, the most frequent correspondence we receive consists of requests from the elderly and people with disabilities who are looking for home and community care services—personal care and domestic services—that allow the elderly to remain living in their home, and people with disabilities to cope with living typical lives and living in the community. Everybody accepts there is not enough money for home and community care, but what case could our Treasurer have to ask the Commonwealth Government for more money for this vital service when his colleague the Minister for Disability Services has not spent \$37.5 million on that vital area of expenditure in government?

The Government has been hoarding that money. Who knows where it is? As I understand it, those responsible for implementing the financial procedures of the Department of Ageing, Home Care and Disability Services have not been able to find that money and they are not sure where it is. Yet the department has the hide to blame it on something to do with red tape, which should be removed—I agree with the Minister—but if New South Wales is the only State in the Commonwealth with this problem, and all States have to cope with the same red tape, what is special about New South Wales? The only special thing about New South Wales is its gold medal financial mismanagement.

The bill provides a \$5 million supplementation for post-school programs, an area which is a shame to this Government. For years the Government has tried to cut the heart out of this budget. When this Government came to office it inherited a plan whereby people with disabilities were funded \$16,500 per person for post-school programs. This Government has now cut funding for individuals in those programs to \$14,500, which is

\$2,000 less than they got 10 years ago. How does the Australian Labor Party, which allegedly stands for the disadvantaged, justify to the people of New South Wales cutting funding by \$2,000 per person for a program that commenced 10 years ago? It is no surprise that instead of getting five days a week service people regularly get three days of six hours—not full days—under that program.

As a result, people with disabilities cannot make a five-day-a-week contribution to the community, as they did when they went to school. Their parents write to me or phone me in tears, saying that they have had to give up their part-time jobs to care for them. Many of those parents are on subsistence incomes, and they have to cope with the expenses of looking after someone with a disability. They have to withdraw from their lives to take on the job of looking after the person with a disability, in the process saving the State a potential \$110,000 per individual—the cost to the Government if that person were in public care. The Government ignores that fact and has the hide to be so measly with the budget of the department of disability services that it cut funding to individual people by \$2,000, which is less than it was 10 years ago when it first came to office. I promise members of the Government that they will wear that achievement with great shame. The added \$5 million for post-school programs will not be enough to restore those people to where they ought to be. I will not stop campaigning until their funding has been restored.

Another unforeseen expenditure that I hope the Treasurer will meet in the next budget is the Social and Community Services Award [SACS]. A lot of organisations depend upon supplementation from the Government. They carry out vital services in our community and, without a shadow of a doubt, most are infinitely more productive than government services. Invariably they provide community and disability services far more efficiently and effectively than a government can. For obvious reasons, it is very hard to deliver personal services from a government: often they are better delivered by organisations such as Barnardo's, the Salvation Army, the Macarthur District Temporary Family Care with which I am familiar and other organisations.

If members of Parliament get a salary increase, the Government pays. If public servants, such as police officers, teachers, et cetera get an increase, the Government pays. Apparently, the Treasurer and this Government have said to people who get paid under the Social and Community Services Award—their annual salary would not amount to our electorate allowance—that they have received an increase already because of supplementation by inflation. Honourable members know that inflation has never yet hit 3.5 per cent, which is the increase all the organisations will receive during the next three years. Oddly enough, the Government is now using exactly the same argument that it accused the Federal Government of using about three or four years ago at the time of another increase in the Social and Community Services Award.

I remember the Treasurer pounding his chest in this Chamber and saying that New South Wales would eventually pay that increase. He told us the Federal Government's excuse was phoney for not paying that award. Now this Treasurer and this Government is using exactly the same rhetoric and excuse for not paying those people who provide phenomenal services to very vulnerable people. I will not stop campaigning about that matter. In fact, stage one of my campaign happened this morning. I promise honourable members that I will go around the State and explain that the Treasurer is responsible for these organisations having to cut hours of services to try to trim their modest services. He will not cough up money for their pay increases, yet he would not dream of not paying an increase within the government sector.

In conclusion, I cannot possibly not highlight the \$636,000 allocation in this budget to centralise the Cabinet Office media unit. I promise the Treasurer that every time someone from disability services asks me for funding I will point out this Government's unforeseen and urgent expenditure of \$636,000 for that purpose. Notwithstanding the \$4 million the Government is prepared to waste bragging about what it is allegedly doing in relation to water, it cannot provide basic disability services. The Government has allocated \$500,000 for an unforeseen and unexpected occurrence—we have been in drought for three years—to finalise the water plan. Let me guess: that \$500,000 will pay a consultant for advice to the Government, which it probably has not taken because it is still persisting with the nonsense of a desalination plan.

My colleague the Hon. Patricia Forsythe could not have said it more eloquently when she said that this is a Government on a deathroll. The Government is prepared to admit to the public that it has \$636,000 to centralise its media unit of the Cabinet Office, yet it does not have basic funding for things such as post-school options. It underspends the Home and Community Care budget and it is unable to fund other basic services.

Though the Legislature will receive funding for fire sprinklers and so on, with great respect, I raise some concerns about the Legislature's lack of provision for people with disabilities, such as accessible toilets.

As shadow Minister for Disability Services, I have many people with disabilities visiting me to make representations, as does the Minister for Disability Services. Sadly, my office doorway is not sufficiently wide to accommodate all of the wheelchairs that need to come through it. Quite often, I have to schedule meetings with people with disabilities in the conference rooms. As honourable members know, those rooms are not always available. People with disabilities ought to have the same access through our doorways as they do anywhere else.

Far more embarrassing was an occasion when I had some people with disabilities in for a press conference. Two people were in wheelchairs. As would be expected, they needed to visit the toilet. I had to walk all the way into the only accessible toilet that this Parliament has—the one behind the coffee bar in the foyer. It could not be in a more revealing and public position for a person who might want to be discreet about going to the toilet. In order to use the toilet, people in wheelchairs must push open doors that have self-closing devices that might as well have been designed to stop them getting access. People with disabilities have to be escorted almost to the pan and to do so they need to tackle not one but two doors that close on their wheelchairs.

The Hon. David Clarke: Shame!

The Hon. JOHN RYAN: It is a shame for this Parliament. I do not blame the Presiding Officers for the fact that this issue has not been addressed. In fact I can report that I have written to the President regarding the matter, and yesterday she advised me verbally that mine was a fair enough complaint and that she would do something about it. I would not object if unforeseen circumstances arose that demonstrated that this Parliament needed \$2 million or \$3 million, which is probably what it will cost, to provide wheelchair accessible toilets on level 7 of this building—and perhaps on level 6, but certainly in places where members are likely to see people. Perhaps those facilities could be provided in a couple of members' rooms, but particularly in a room that might service the Minister for Disability Services, because I understand that he experiences the same problem as I do: his office is not absolutely accessible by people in wheelchairs.

It is a shame that, some 15 years after we mandated that all other public buildings should address this need, the Parliament has not addressed it. I understand the difficulties with this being a historic building and so forth, but there is plenty of technology and plenty of ingenuity available to address those difficulties, and I appeal to all who would manage the Parliament to address those issues as quickly as possible.

Ms LEE RHIANNON [11.52 a.m.]: The Greens support the bill. Obviously, budgets will vary. Everyone understands that. Nonetheless, while so many of the items in the bill under discussion are justified and are understandably part of the State budget, so many of them could, and should, have been predicted when the original budget was handed down and funds allocated accordingly. Then there are other items, which many other members have singled out, which simply should not be in this budget variation bill.

There are two big problems with the bill: first, some items should have been included in last year's budget; and, second, others are, or should be, an embarrassment for the Government. Those items have been well documented, but I want to add my voice to those expressing concern about the centralising of the Media Monitoring Unit. One would think the Government would have been able to predict this item of expenditure. The fact that it now has to include the item in this bill demonstrates very bad judgment on its part and insults the people of New South Wales.

The Greens, having indicated their support for the bill, would be more understanding of the need to bring forward such an Appropriation (Budget Variations) Bill if the public services of this State were up to scratch. Public transport, public health and public education should be in a healthy state. That this bill provides for expenditure of about \$1.3 billion tends to make one think that the money will be spent wisely and where it is most needed. But, once again, that is not the fact. One of the main reasons for infrastructure not being maintained, improved and expanded is the zero debt fetish that seems to have consumed the present Government.

The Government says it needs this \$1.3 billion because it has a huge problem on its hands. As I have said, we understand that much of that expenditure is important. But does this bill flag a process of bringing forward appropriation variations bills to cover large items of expenditure that the Government probably knew when framing its initial budget it would need to expend? Is this the way that governments now prepare their budgets? Is that what Treasurer Michael Costa is doing right now, as he tries to work out what he will tell us in June? Will he say, "We will hold that item over for another eight months, when we will bring forward the Appropriation (Budget Variations) Bill 2007"? I wonder whether that is what the Treasurer is doing as we

speak. This budget variations bill certainly makes one wonder about so-called responsible government as we celebrate its one hundred and fiftieth anniversary.

I strongly endorse the Hon. John Ryan's comments about transparency in the budget process. The honourable member certainly nailed it when he said how difficult it is to come to grips with what much of this budget seeks to achieve. If members of this place are having difficulty in meeting that challenge, how does the general public come to grips with this budget process and language that is so difficult to comprehend?

Another matter worthy of mention is the entire budget estimates process. Clearly, estimates hearings should not be hearings that Ministers attend because they feel obliged to do so. Surely it is time for that process to be changed so that the hearings become much more thorough—not an add-on to the end of the day, but with a whole day being set aside for a hearing so that estimates committee members can grapple with what is behind the budget. Changing the language of the bill is very much part of that process.

The Hon. GREG PEARCE [11.56 a.m.]: What a contrast! The day after the Federal Liberal-Nationals Government introduced its responsible budget—tax cuts, superannuation reform and funding for infrastructure—here we are in this House debating yet again a bill that demonstrates the financial mismanagement and incompetence of the Carr and Iemma Labor governments. This debate takes place at a most relevant time, given the song and dance of the current New South Wales Treasurer about the goods and services tax [GST] and his abject failure to convince his State colleagues to change the GST distribution formula. It is yet another embarrassment for the New South Wales Treasurer that yesterday's Federal budget demonstrated the massive windfall that the New South Wales Government receives from GST revenue, while our State Government continues to squander its finances through dangerous mismanagement and overspending of taxpayers' dollars.

It is clear that Treasurer Costa now has nowhere left to hide and no-one to blame for the poor state of health, transport, police services and school facilities when the Federal budget reveals that New South Wales will receive GST windfall revenues of \$2.4 billion over the next four years, starting with a GST windfall of \$160 million in the 2006-07 financial year. The New South Wales Labor Government has shown that it simply cannot manage the economy of this State. That is why New South Wales is a basket case, instead of being the dynamic centre of Australia's economic performance.

As a number of honourable members have said, the bill highlights two major issues. One is that it is very hard to understand why, if the Government were competent, as it claims, it could not have predicted a great many of these expenditures. I say that in the context of a record over the past 11 years of the Government and Treasurer Michael Egan introducing budgets with great fanfare, only to follow those with a series of appropriation variation bills when the results of initial budgets did not reflect the surpluses that former Treasurer Egan was happy to talk about.

Now we have a budget that is in deficit. We do not know the size of the deficit, but it is clearly in deficit. The Treasurer has to come back to the Parliament with a whole raft of requests for additional funding or distribution of the Treasurer's advance. The second issue that a number of other speakers have highlighted is that for many of these expenditures—some of which are in the order of \$15 million, \$20 million and \$36 million, as highlighted by the Hon. John Ryan—there is no explanation for the expenditure. How is Parliament meant to scrutinise government expenditure when there is such a lengthy list of expenditure with no proper explanation? That is a matter of great concern. I will address some of those matters in due course.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

SYDNEY HARBOUR CHARTER BOAT OPERATORS

The Hon. DUNCAN GAY: My question without notice is directed to the Minister for Primary Industries. Does the Minister stand by his statement in this House last night that he has not had any charter boat operators knocking at his door to talk to him about the effect on their business of dangerous dioxin levels in Sydney Harbour? Why is it that a Sydney Harbour charter operator is frustrated with the Minister's office, he having been promised on three separate occasions that his calls would be returned by an adviser but he has not

been contacted? How many other charter operators are in the same situation? Considering the Minister indicated last night that he would like to hear from any affected charter boat operators, will the Minister now undertake to meet with this operator and other similarly affected Sydney Harbour charter boat operators?

The Hon. IAN MACDONALD: I am a bit intrigued by this question because, as I said last night, the Department of Primary Industries [DPI] met with one operator who appeared to render the situation that the impact of dioxins on their business within the harbour was negligible. When looking at recreational fishing these days, a lot of it is by catch and release. I fail to see how that could be affected by the dioxins, given that people do not engage in recreational fishing to eat their catch. I am not aware of this particular charter boat operator—

The Hon. Duncan Gay: I am more than willing to make you aware of his name.

The Hon. IAN MACDONALD: Wait a second. As I said—

The Hon. Duncan Gay: Because on three occasions your office failed to call him back.

The Hon. IAN MACDONALD: I will have that looked into, without doubt, but I certainly have not been contacted. I have not seen correspondence in relation to it. I will take the name of the person, which the honourable member will supply me with, and I will certainly meet with him about the situation.

HEALTH SYSTEM

The Hon. GREG DONNELLY: I address my question to the Minister for Health. What are the implications for the New South Wales health system, in light of last night's Federal budget?

The Hon. JOHN HATZISTERGOS: The Hon. Greg Donnelly is to be commended for having asked such a timely question because I am not alone in expressing disappointment in the Commonwealth's health budget announced last night. The Australian Medical Association—an authority often cited by the Opposition in this place—had this to say about the budget:

With the budget surplus screaming out for big ticket items we find ourselves in the health policy two-dollar shop.

The Rural Doctors Association—I would have thought The Nationals would be interested in this—said of last night's budget:

Given the massive surplus in this budget, we are very disappointed the Government has not funded a range of measures that would make a huge difference in improving access to rural healthcare and getting more doctors to rural Australia—and at very little cost to the budget bottom line.

The Government concurs with those statements. Of the \$3.8 billion dollars collected from Australian taxpayers there is not a single extra dollar for our hospitals—not for our emergency departments and not for basic surgical and medical services for our ageing population. There is nothing in the budget for issues confronting our emerging population, such as obesity.

The work force measures re-announced last night, even by the Commonwealth's own reports, still meet only 30 per cent of the places we need. They do not meet the urgent demand that New South Wales clinicians and planners have agreed needs to be met. The urgent demand includes more allied health training places and clinical placement subsidies; better community access to medical benefits scheme and pharmaceutical benefits scheme; rebate on services to enable health professionals to provide multidisciplinary care to people where and when they need it; national assessment of overseas trained professionals; national registration and accreditation processes; tax relief measures that target better distribution of the work force; incentives to increase the health work force in rural areas such as reduction in the higher education contribution debt for graduates; and providing subsidies for rural training and practice. None of those issues were addressed. New South Wales is more than willing to put in our fair share and this year New South Wales has invested over \$13 million to recruit an additional 543 physicians and allied health staff.

In relation to nurses, we have introduced a range of initiatives, including offering 400 scholarships this year to retain our dedicated nursing staff. We now have 39,000 nurses employed in the public health system, an increase of 5,600 since January 2002. But dealing with the Commonwealth on this issue is like banging our heads against a brick wall. The Commonwealth does not understand that lack of access to primary care services is placing an incredible pressure on our hospitals. It is like the Australian Health Care Agreement where New South Wales loses \$42 million every year in a deal that we had to sign because if we did not sign we would

otherwise have been penalised. The Health budget announced by the Federal Government last night is disappointing to say the least and I look forward to seeing honourable members opposite attempt to defend it.

DISABILITY SERVICES REDUCTIONS

The Hon. JOHN RYAN: My question is directed to the Minister for Disability Services. Have Westhaven in Dubbo, the House with No Steps in Forbes and Glenray in Bathurst today said that they would be forced to cut services to clients with disabilities because the Government refuses to fund wage increases for non-government service providers? Has the Minister made representations to the Premier and to the Treasurer about social and community services award increases, and does the Minister maintain that wage increases will be funded only in line with indexation? Has the Minister received vigorous representations from the Australian Council for Rehabilitation of the Disabled [ACROD], the peak organisation for service providers, about this matter? Now that crucial service providers have said that services will be reduced or even closed in this State's west, what plans has the Government made to support people with disabilities who rely on services provided by those organisations?

The Hon. JOHN DELLA BOSCA: In respect of the last part of the honourable member's question, I am not aware of specific remarks by the three organisations to which he referred.

The Hon. John Ryan: So much for centralising the Cabinet.

The Hon. Duncan Gay: What are you spending all that media money on?

The Hon. JOHN DELLA BOSCA: I acknowledge the interjections of both honourable members opposite, but I concede that they are disorderly as always. I am not specifically aware of the three services making public statements along the lines suggested by the honourable member in his question, but I will, immediately after question time, ascertain the veracity of his assertion and undertake to respond to those organisations directly.

In regard to the general question of a public call for variations to the various grants and payments to non-government organisations through both the Department of Disability and Home Care and the Department of Community Services, and for that matter the variety of services provided through non-government organisations by the health agencies, I have had a number of important discussions with them, as the honourable member accurately pointed out. I would not call them vigorous representations, but I had a very useful discussion with senior members of ACROD just the other day—indeed, within the last 72 hours or so—and some important discussions with a number of non-government organisations, the larger organisations, and the representative organisation, NCOSS.

I have made the general point, on a number of occasions publicly, that all such grants are subject to an indexation component that is meant to reflect the likely risks in terms of cost movements over the life of those grants. As I have said previously and as my colleague the Treasurer has said on a number of occasions, the indexation of those grants is regarded as sufficient to cover all those cost escalations. I am receiving representations indicating that is not the case. Clearly discussions will continue, but I am not in a position to make any policy announcements. Indeed, it would be contrary to standing orders for me to do so.

As for any discussions that I have had with the Treasurer and/or the Premier about these matters, they of course would be Cabinet-in-confidence discussions. However, I am able to say that this Government is very committed to the delivery of high-quality, efficiently delivered disability services, community services and health services and, for that matter, drug and alcohol and mental health services, as they have been delivered through non-government organisations. Indeed, the Government's track record in this respect is very clear.

While I might be stimulated by some of the remarks made by the honourable member in the previous debate, I will not be diverted. I simply say that clearly indexation and wage movements have bedevilled government and non-government organisations in the smooth delivery of community services. Rather than make periodic political claims, such as those made by the shadow Minister, this Government will work on a way to make sure that those services are delivered and to ensure that a proper basis is established for going forward to determine cost controls and appropriations in the community sector budget.

UNDERGROUND MINING ENVIRONMENTAL IMPACTS

Reverend the Hon. Dr GORDON MOYES: I ask the Minister for Mineral Resources: Is he aware that the cracking of river and creek beds due to subsidence from underground mining has drained several areas in the Sydney catchment area, most notably Marhnyes Hole in the Georges River and sections of the Cataract

River? Is he aware that methods used for the remediation of damage have been largely unsuccessful? Is he aware that attempts to remediate the damage in Marhnyes Hole have been discontinued, despite company commitments to fix it? Will the Minister confirm that the Department of Mineral Resources has no mechanisms in place to force the mining company to fix the problems it has caused, nor does it have any guidelines on watercourses to prevent it happening again?

The Hon. IAN MACDONALD: A fair bit of work has been done. In the past, underground longwall mining has caused highly publicised impacts on rivers. To minimise this impact, the Government introduced a subsidence management planning process for underground coalmining to better identify potential impacts and remediation strategies. Companies are now required to submit subsidence management plans wherever proposed underground coalmining may potentially result in subsidence. The plans must include a comprehensive assessment of all potential impacts that are likely to occur as a result of the proposed mining. The subsidence management plan process is aimed at protecting environmentally sensitive features from the impacts of mine subsidence. The process includes community consultation and a requirement for baseline environmental studies of sensitive areas.

The views of the community and other government agencies are fully taken into account during the assessment process. A government interagency committee reviews and advises on all subsidence management plan applications. The interagency committee comprises representatives from the Sydney Catchment Authority, the Dam Safety Committee, the Mine Subsidence Board, the Department of Planning, the Department of Natural Resources, the Department of Environment and Conservation and the Department of Primary Industries. The Government is committed to ensuring that the mining industry meets contemporary standards for environmental management, and will not approve mining that has an unacceptable impact on rivers and the environment.

In response to the specific area mentioned by the Reverend the Hon. Dr Gordon Moyes in his question, I point out that impacts on the Cataract and Georges rivers in the southern coalfields have been the most significant from longwall coalmining, but impacts have been identified elsewhere. Impacts have included cracking of riverbeds, which has caused a loss of surface flows, reduced water quality, and some rock falls. Other impacts on rivers have included acid mine drainage, which has caused localised minor impacts only. The Government has always required companies to remediate damage, and that is my understanding of the process that is in place in such instances. The Department of Primary Industries will continue to set stringent standards for mining and will continue to monitor compliance with these standards.

FEDERAL BUDGET

The Hon. EDDIE OBEID: My question is addressed to the Treasurer. What impact will the Federal budget have on the current system of fiscal State-Federal arrangements, which clearly disadvantage New South Wales taxpayers?

The Hon. MICHAEL COSTA: I thank the Hon. Eddie Obeid for his well-timed and precise question. It gives me the opportunity to focus on the Federal budget. I probably speak on behalf of most honourable members of this House when I thank Peter Costello for my very generous tax cut and for making arrangements so that John Howard can benefit from his superannuation when he retires. Hopefully this budget will not allow Peter Costello—the worst Treasurer in the history of Australia—to become the Prime Minister. The answer to the question asked by the honourable member is simple: it makes no difference at all. New South Wales is still disadvantaged in its relative fiscal position as a result of last night's budget.

The PRESIDENT: Order! I call the Hon. John Ryan to order for the first time. I call the Deputy Leader of the Opposition to order for the first time. I call the Hon. John Ryan to order for the second time.

The Hon. MICHAEL COSTA: The Opposition does not want to hear an analysis of the budget because it is embarrassed by the budget that was presented last night. It was an extraordinary budget that is best summed up by Alan Kohler in the *Sydney Morning Herald*.

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

The Hon. MICHAEL COSTA: Alan Kohler described the budget as follows:

This is a gloriously irresponsible, amazingly profligate budget. A sort of cross between Alan Bond and Zsa Zsa Gabor – whooping it up while things are great and who cares about tomorrow.

That was the budget presented last night. It is a budget that makes it very likely that interest rates will increase in this country in the foreseeable future, a budget that is likely to put additional pressure on household incomes, a budget that does not address the real issues facing Australia. For the first time today I am able to reveal something that I said I would not reveal until the Federal budget was handed down. When I was negotiating with the Federal Treasurer for a set of financial arrangements to improve the Pacific Highway, I said, "Our priority is the Pacific Highway. I would like to see some of your Federal surplus go into the Pacific Highway. We want to ensure that the Pacific Highway is a road that has a dual carriageway from Hexham to the Queensland border."

The Hon. Greg Pearce: Point of order: It might be very interesting to have the Treasurer explain to us how he failed in his negotiations with the Federal Treasurer, and my point of order is based on relevance—

The PRESIDENT: Order! There is no point of order. The Hon. Greg Pearce will take his seat. I have ruled on numerous occasions that members must not take points of order to make debating points.

The Hon. MICHAEL COSTA: Peter Costello said to me in that conversation that he was not prepared to put any additional funding into the Pacific Highway—he was concerned about the Hume Highway. The reason we have \$800 million for the Hume Highway is because Peter Costello has decided to make it easier for himself to get from Canberra to Melbourne on a Friday afternoon. That is the only reason he would allocate \$800 million in additional funds for the Hume Highway. It is a disgrace.

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

The Hon. MICHAEL COSTA: As I was saying, \$800 million is to be allocated to the Hume Highway to allow the Federal Treasurer to get home expeditiously on a Friday afternoon after the Federal Parliament's sittings conclude. An allocation for the Pacific Highway arose because the Federal Government was embarrassed by the size of the Federal surplus. To absorb an embarrassingly large surplus, last week the Federal Government handed out money to the States and Territories.

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

The Hon. MICHAEL COSTA: That is where the \$160 million came from for the Pacific Highway. The Opposition has no interest in the Pacific Highway, but time and again in question time the members opposite attack the New South Wales Government on road funding. Their colleague the Federal Treasurer told me that he was not prepared to allocate money for the Pacific Highway, and that is an absolute disgrace. The Federal budget gets even worse than that. As clearly pointed out in the Warren report, services are primarily delivered by the State government. The Minister for Health pointed out that our Health budget is growing by 7.5 per cent per annum.

The Hon. Duncan Gay: Point of order: The Minister is misleading the House. He has failed to tell the House whether the Pacific Highway is a State highway.

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

The Hon. MICHAEL COSTA: The Opposition is embarrassed because the Federal budget is an absolute disgrace. They should remember where the money comes from in the first place; it comes out of the pockets of taxpayers. All it gives back is our own taxes. We have had bracket creep year after year but the Federal Government has not adjusted tax indexation rates. The budget will be exposed for what it is: a budget that will lead to growth in the current account and further pressure on interest rates.

THE HONOURABLE PETER BREEN AUSTRALIAN LABOR PARTY MEMBERSHIP

The Hon. MICHAEL GALLACHER: My question is directed to the Leader of the Government. In view of the decision by the Hon. Peter Breen to sit in this House as a member of his Government, will he indicate what matters the Hon. Peter Breen has consistently expressed concerns about that the Government has now agreed to review—

The Hon. Amanda Fazio: Point of order: Under the standing orders questions can be directed to Ministers about their portfolio responsibilities but they cannot be directed to other matters. I ask you to rule that the question is out of order.

The Hon. MICHAEL GALLACHER: To the point of order: My question is directed to the Leader of the Government in relation to matters that the Hon. Peter Breen has spoken very passionately about in the past. They are public affairs that referred to the Phuong Ngo murder case, the Janine Balding case and the Roseanne Catt case. The public has a right to know whether the Government has changed its position on those matters.

The Hon. Don Harwin: To the point of order: The question is clearly about whether the Government is going to review matters that are within the public domain. The question is directed to the Leader of the Government in that capacity. If the Leader of the Opposition were allowed to finish his question it would be obvious that it is within order.

The PRESIDENT: Order! The problem with the question is that it is not clearly about anything. It contained argument and is therefore out of order. The Leader of the Opposition may wish to rephrase the question when he is next given the call to ask the Minister about public affairs with which he is officially connected.

COURT OF CRIMINAL APPEAL MONTEKIAI TAUFHEMA CONVICTION DECISION

Reverend the Hon. FRED NILE: I ask the Minister for Commerce, representing the Attorney General, a question without notice. Has the Court of Criminal Appeal quashed the conviction of Montekiai Taufahema, the convicted murderer of police officer Constable Glenn McEnallay? Has the Court of Criminal Appeal made that decision because of its interpretation of the "joint criminal enterprise" requirement in the New South Wales criminal law? Will the Government introduce legislation to clarify the legal charge of "joint criminal enterprise" to ensure it works efficiently to uphold convictions in the future? Will Montekiai Taufahema remain in gaol for the conviction of possession of an unlicensed firearm? If so, for how long?

The Hon. JOHN DELLA BOSCA: Clearly that question is directed to me as the Leader of the Government. The Attorney General would be the appropriate person to form a view about this matter and advise him of that opinion. At this stage I am not in a position to announce any change of Government approach in relation to those matters. I am sure the Attorney General will give careful consideration to the honourable member's question and I will provide him with the Attorney General's answer as soon as practicable.

JUVENILE JUSTICE FACILITIES

The Hon. PENNY SHARPE: My question is addressed to the Minister for Juvenile Justice. What is the Government's record on improving juvenile justice in New South Wales?

The Hon. TONY KELLY: In 1995 the incoming Labor Government inherited a system that was in decay and had suffered years of neglect by the previous Liberal administration. Facilities were so poor we virtually had to start from scratch.

The Hon. Catherine Cusack: What does that tell you about 1998? It was a disaster.

The Hon. TONY KELLY: The Hon. Catherine Cusack should know, because she was in the Minister's office when 266 juveniles escaped.

The Hon. Duncan Gay: You were there for 10 years and did nothing.

The Hon. TONY KELLY: I am glad that the Deputy Leader of the Opposition interjected. I will tell him exactly what we have done in 10 years. Detention facilities for juvenile offenders were so run down that 80 per cent of the bed space was classified as unsuitable. Most of the accommodation did not meet national or international standards. That sad state of affairs presented huge risks in safety and security to detainees, Juvenile Justice staff and the community at large. In addition, Juvenile Justice centres were concentrated around the Sydney metropolitan area, where the Liberals had all their interests; they were not interested in country people. Young people from rural and regional areas who were placed in custody were isolated from their family and friends.

The Hon. Catherine Cusack: That is why we funded the centre at Dubbo.

The Hon. TONY KELLY: What did the Hon. Catherine Cusack say about Dubbo?

The Hon. Catherine Cusack: That is why we funded it.

The Hon. TONY KELLY: You funded six places at Dubbo. This Government upgraded that to 30. More importantly, that sad state of affairs compounded the difficulty of the successful implementation of effective casework and post-release support. The Labor Government had no choice. Investment, planning and foresight were needed urgently. Now, 10 years and \$116 million later, we have a Juvenile Justice system that protects the community and staff, and aims to break the crime cycle for young offenders. In our first seven years we provided additional accommodation at Cobham Juvenile Justice Centre. We opened centres on the North Coast at Grafton, in the west at Dubbo and on the Central Coast at the Frank Baxter Juvenile Justice Centre.

We closed the substandard Mt Penang, Minda and Worrimi facilities. More recently the old Yasmarr facility for female offenders at Haberfield was closed and replaced by the state-of-the-art Juniperina centre at Lidcombe. Cobham and Reiby centres have undergone major building refurbishment. In fact, soon I will have the pleasure of officially opening new units at the Reiby Juvenile Justice Centre. If no other yardstick is applied I think that the statistics tell it all. In 1989-90 there were 266 escapes and last financial year there were nine. I am proud of Labor's record and legacy for Juvenile Justice in New South Wales. We have hugely improved safety and security for the community, Juvenile Justice staff and for detainees.

CENTENNIAL COAL ANVIL HILL MINE APPLICATION

Ms LEE RHIANNON: I direct my question to the Minister for Mineral Resources. Considering that Centennial Coal has withdrawn plans to undertake open-cut mining at Awaba, which is a great win for the local community, will the Minister ensure the proper approval process is followed at the Centennial Coal-Anvil Hill project? Will the Department of Mineral Resources freeze the Anvil Hill project until a thorough species identification survey has been completed on the Anvil Hill site and the necessary threat abatement plans have been developed?

The Hon. John Della Bosca: Have you spoken to the Construction, Forestry, Mining and Energy Union about this, Lee? I do not think they would be happy with you. They might change their report card.

Ms LEE RHIANNON: The Minister can be critical and co-operative.

The Hon. IAN MACDONALD: The question of Ms Lee Rhiannon is another in a long line of questions from the Greens critical of the coalmining industry in New South Wales. After question time I will convey it to my colleagues in the mining division of the Construction, Forestry, Mining and Energy Union who are always phoning me to talk about the activities of a certain member of the Greens on this issue. Centennial Coal has indicated that it will not proceed with its application for an open-cut mine at Awaba and will look instead to extend the Newstead mine and undertake further underground mining in that area. The Anvil Hill mine application is currently before the Minister for Planning, as is the process. Accordingly Ms Lee Rhiannon should direct further questions on this issue to the Minister for Planning. Centennial Coal has put an application for a significant mine before the Government, and we will consider it properly. As I said earlier in answer to a question from Reverend the Hon. Dr Gordon Moyes, the Government takes such applications seriously. We consider all environmental factors when examining mine applications, and that will occur in this case.

The question is proof that the New South Wales Greens oppose all mining across the State. They have continually opposed mine developments and proposed mine sites, whether in the southwest of Sydney, the Illawarra, the Hunter or at Lake Cowal. As to metalliferous mining, the Greens have asked inappropriate questions about environmental matters that have already been considered in great depth. The Greens in this State are anti-mining and it is clear that the Greens, as the mining industry employs directly about 20,000 people in New South Wales, have no interest in the future of mine workers and their families.

THE HONOURABLE PETER BREEN PARLIAMENTARY ENTITLEMENTS

The Hon. GREG PEARCE: My question is directed to the Leader of the Government. Will the Leader of the Government inform the House what steps the Hon. Peter Breen has taken to relinquish his additional parliamentary entitlements that are extended only to members of the crossbench?

The Hon. Amanda Fazio: Point of order—

The PRESIDENT: Order! The member will resume his seat.

The Hon. GREG PEARCE: Has the Hon. Peter Breen outlined his intention to reduce his number of staff—

The PRESIDENT: Order! The Hon. Greg Pearce will resume his seat. The question may well have been in order but because the Hon. Greg Pearce took no notice of my instruction to resume his seat, and because I could not hear the question, I rule it out of order. Members should resume their seats when asked by the Chair to do so.

The Hon. Greg Pearce: Point of order: Madam President, I did not hear your suggestion that I resume my seat over the din created by Government members. I have not had an opportunity to address the point of order and I did finish asking my question. I note that you often make the point that you cannot hear in the Chamber. It is exactly the same for other members in the House. I apologise, but I did not hear your ruling.

The PRESIDENT: Order! The Hon. Greg Pearce can hand me the question and I will look at it and tell him whether it is in order. I certainly did not hear it. The problem with the question is that the Hon. Greg Pearce is not asking the Minister about a matter over which the Minister has control.

The Hon. Michael Gallacher: Finance?

The PRESIDENT: Order! Such questions should properly be put either to the Presiding Officer or to the Parliamentary Remuneration Tribunal. I have regularly ruled that I will not respond in this place to questions directed to me about the administration of Parliament. However, the Hon. Greg Pearce is most welcome to speak to me in my office at any time, when I will tell him my views on the matter.

The Hon. Greg Pearce: On a point of clarification: My understanding is that the Premier is the Minister responsible for the Parliamentary Remuneration Act, and the Hon. John Della Bosca represents the Premier in this House. I therefore ask you to take the question on notice and perhaps review your ruling.

The PRESIDENT: Order! The question is based on a false assumption about the relevant legislation, which provides quite clearly that a member is provided with an additional staff member if he or she is elected as an Independent.

FEDERAL BUDGET

The Hon. HENRY TSANG: My question is addressed to the Treasurer. Will the Treasurer outline how the Federal Government's budget impacts upon the current interest rate environment, particularly in New South Wales?

The Hon. MICHAEL COSTA: I thank the Hon. Henry Tsang for that very good question, which is probably similar to the question that all New South Wales taxpayers are asking today in light of the recent increase in interest rates. All taxpayers, particularly those with mortgages, are very concerned about interest rates and the impact of the Federal budget, which was delivered last night, on the current interest rate environment. Interest rate movements are complex but, historically, two variables have been considered in determining them. One is the budget strategy. An expansionary strategy has clearly been employed in this budget. In examining that strategy, we must consider how the Federal Government is expanding the economy. Rather than spending a massive surplus on infrastructure investment, it has chosen to pump that money back into the economy and create inflationary pressures. Is it any wonder that the Reserve Bank of Australia—which knows the Federal Treasurer very well—took a pre-emptive strike and increased interest rates in the lead-up to the Federal budget? The Governor of the Reserve Bank and the Reserve Bank board knew that it would be an irresponsible budget. And they were absolutely right because this expansionary budget will feed existing inflationary pressures.

The Hon. Catherine Cusack: Labor demands tax cuts then votes against tax cuts.

The Hon. MICHAEL COSTA: The Hon. Catherine Cusack talks about tax cuts. The issue here is sustainable economic growth. We know that there are skills shortages across the Australian economy, which is reaching capacity in a range of sectors. Rather than pouring funds into eliminating skills shortages and into education and training to build a sustainable platform for the future, the Federal Government has chosen to take the quick and easy path and make political mileage. It is pumping money into an inflationary environment—

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

The Hon. MICHAEL COSTA: —and putting further pressure on interest rates.

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

The Hon. MICHAEL COSTA: The Opposition is responsible for New South Wales families paying more on their mortgages and it will be responsible for the next round of interest rate increases. We will hold all Opposition members responsible for that.

The Hon. Greg Pearce: Point of order: My point of order is relevance. The Treasurer said that the Opposition is responsible for mortgage payments. We cannot possibly be responsible for the level of mortgage payments. That is completely irrelevant and off the point and has nothing to do with the question.

The PRESIDENT: Order! I remind the Treasurer that his answer must be relevant to the question.

The Hon. MICHAEL COSTA: I understood that the Federal Treasurer is a member of the party to which the Hon. Greg Pearce also belongs, but maybe I am wrong. The current account is the second factor that has historically fed into an inflationary environment. The current account figures that were revealed last night are appalling. The current account has gone from \$56.25 billion—[*Time expired.*]

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

The Hon. Duncan Gay: Is this going to happen with every question?

The Hon. MICHAEL COSTA: If you keep interjecting it will. Opposition members are embarrassed to hear what has happened to the current account under the profligate treasurership of Peter Costello. On the other side of this Chamber sits a party of tax and waste conservatives. The Federal Government is the highest taxing government in Australia's history and it is wasting money by the bucket load.

The PRESIDENT: Order! There is too much chatter by all members. I call the Hon. Eddie Obeid to order.

The Hon. Greg Pearce: Point of order: The Treasurer is clearly deluded: he is talking about the Opposition as the Government. The last time I looked we were members of the Opposition so again he has not been relevant. He is not addressing the question, which related to the Federal budget, as I understood it.

The PRESIDENT: Order! I remind the Minister that his answer must be relevant.

The Hon. MICHAEL COSTA: These factors are relevant to the interest rate environment for the nation and also New South Wales. The current account directly feeds into it. In this budget we see the current account moving from 6 per cent of gross domestic product to approximately 6¼ per cent—clearly a mismanagement of the Federal economy.

The Hon. Duncan Gay: You are making no more sense than your squeaky wheel contribution on radio this morning.

The Hon. MICHAEL COSTA: You may well be embarrassed, and seek to interject, but those facts will feed into inflationary pressures, and we will see an increase in mortgage rates, and the tax and waste conservatives will be held responsible.

FEMALE CHILDREN IN CARE REPRESENTATION IN JUVENILE DETENTION

The Hon. Dr PETER WONG: My question is directed to Minister for Juvenile Justice. Did the 2003 Young People in Custody Health Survey find that 39 per cent of girls in the custody of the Department of Juvenile Justice had been in the care of the State? Why are those children so overrepresented? What has the Department of Juvenile Justice done to address the serious overrepresentation of such girls?

The Hon. TONY KELLY: This question is detailed and requires the input of one of my ministerial colleagues. I will take it on notice and undertake to get a response to the honourable member.

CASINO TO MURWILLUMBAH RAIL LINE

The Hon. CATHERINE CUSACK: Under Standing Order 64 (2) I direct a question to the Hon. Peter Breen in respect to Private Members' Business item No. 116 outside the Order of Precedence, by which he will bring in a bill for an Act to provide for the re-opening of the Casino to Murwillumbah railway for regular

passenger services. Given that next week marks the second anniversary of the closure of that rail service, will the Hon. Peter Breen seek to bring forward his bill for second reading on private members' day tomorrow?

The Hon. PETER BREEN: This is an important question and one on which I need to do some work. I will take it on notice.

The Hon. CATHERINE CUSACK: I ask a supplementary question.

The PRESIDENT: Order! I could not hear the member's original question because of the noise in the Chamber. Members will cease chattering. I call the Deputy Leader of the Opposition to order for the second time. Members should remain silent to enable the Chair to hear the supplementary question.

The Hon. CATHERINE CUSACK: Will the Hon. Peter Breen give an undertaking that he will continue his public campaign to have the services reopened?

The Hon. PETER BREEN: That is not a supplementary question. Nothing in the so-called supplementary question arises out of my answer.

SNOWY RIVER ENVIRONMENTAL HEALTH

The Hon. TONY CATANZARITI: My question is addressed to the Minister for Finance. Following the Government's agreement to contribute \$150 million to the restoration of the Snowy River, what is the latest information on the scientific monitoring of the river?

The Hon. JOHN DELLA BOSCA: I am pleased to inform the House of the very important scientific work being undertaken as part of the recovery of the great Snowy River. As honourable members may well recall, the historic agreement between the New South Wales, Victorian and Australian governments has already returned significant flows to the river. It is not quite four years since that agreement, and already 100 gegalitres, that is, 100 billion litres of additional environmental flows have passed within the banks of the Snowy. And there will be even greater environmental flows in the coming year. We anticipate a further 92 gegalitres of additional water savings, all of which directly improves the health of the Snowy River. Those water flows are achieved without reducing the guaranteed minimum flows to irrigators in the Murrumbidgee and Murray regions.

As well as delivering this massive increase in environmental flows this Government is carrying out a range of projects that will ensure that the Snowy River and the local environment enjoy the maximum result from the increased flows. But its work goes further. The Department of Natural Resources has been gathering scientific data about the health of the Snowy River for the past six years. That not only allows us to measure the increasing level of flows in the Snowy River; it also allows us to measure the impact of environmental flows and associated projects against three years of baseline data collected before the restoration of the Snowy River commenced in 2002. This is a valuable resource for those working on the Snowy River, and for everyone who cares about the health of the river. It is also a valuable resource for scientists around the world as it provides a proper before-and-after case study of river restoration.

The people working on the restoration of the Snowy River tell me that from a scientific perspective this project is one of the top three most important river restoration projects in the world. And the data tells us that even the first three years of environmental flows are starting to produce the benefits we hoped for. Scientists monitoring the river's response are reporting that the higher flows have begun to strip away algae from where it has formed a mat on the riverbed, and have expanded the flow channel in some of the upper reaches of the river. As well, the natural regeneration of mobile sand banks has commenced, an early and pleasing result of the first environmental flows.

One of the commitments made by this Government as part of the Snowy River water agreements was to establish a Snowy Scientific Committee when there are sufficient environmental flows to require decisions about the timing of releases. The committee is being established now because it is anticipated we will require those decisions in the coming year. The committee's role is to provide advice on additional environmental flows in the Snowy River and to monitor the restoration of the catchments. I have commenced the process of establishing this committee, drawing members from a range of government agencies in New South Wales and Victoria to ensure the best scientific knowledge is available. The committee will be chaired by an independent scientist with appropriate expertise in riparian and aquatic environments. Those flows are guaranteed, regardless

of the ownership of the power generator, Snowy Hydro Limited. The Government will remain the water regulator into the future—guaranteeing flows to the environment and flows to irrigators—and it will continue to monitor the tremendous recovery of the Snowy River system.

PROFESSIONAL SPORTSPEOPLE WORKCOVER INSURANCE

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.50 a.m.]: My question is directed to the Minister for Industrial Relations. Does professional sport come under the aegis of WorkCover? Is the Minister aware that a professional rugby footballer of national standing was suspended for only one week after making a spear tackle on another player of the type that is both illegal and likely to cause quadriplegia? Does the Government exercise any supervision over disciplinary tribunals of the various football codes? If penalties for unacceptable assaults or tackles become derisory, will the Government intervene to take power from these tribunals? If a player were rendered quadriplegic by an illegal tackle, would the Government prosecute the perpetrator, and if not, why not? Under what criteria, if any, would the Government take power from those tribunals, or prosecute players under other laws? How can parents in New South Wales confidently start their children in rugby football codes in that situation?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his question, which raises a number of interesting points. The first is whether professional sports come under the aegis of WorkCover. The general answer to the question is yes, but only in the context that professional sportsmen or sportswomen conduct their professional sports as workers; in other words, if they are contracted as employees. In that case the club or association would be obliged to have a workers compensation policy covering them.

A number of sporting bodies—probably the best-known professional sports in New South Wales and Australia—currently are exempt from WorkCover and the Sporting Injuries Insurance Act. They include, for example, the Australian Football League, the National Rugby League, cricket and rugby union, which is the sport that I think the honourable member's question essentially is about. I might say as an aside, for example, that apart from the exemption provisions, whether WorkCover insurance is required for a professional sporting body centres around the issue of the form of contract for the players. For example, there is a current issue about whether netball players should be regarded as workers for the purposes of the Workers Compensation Act. Similarly the way in which soccer players are contracted is a matter that generally would leave them, as I understand it, exempt from WorkCover control in relation to the conduct of their sport. Therefore the answer to the first part of the honourable member's question is that, in a general sense, professional sport does come under the aegis of WorkCover. However, there are specific exemptions for the better-known professional sports, and there is some dispute about the ways in which some of the other professional sports operate.

In respect of the remainder of the honourable member's question, I am aware of the particular matter he spoke about, as I think would most who read the sports pages or follow rugby union and rugby league. The Government does not exercise any direct supervision over disciplinary tribunals of the various football codes. I am not sure what the honourable member means by his reference to penalties for unacceptable actions. Previous behaviour and the degree of intent in any particular incident on a playing field are largely matters for those internal tribunals to make determinations about.

The rest of the honourable member's question suggested an equating of tackles in some codes of football with assaults. That is a very tricky issue, because for the most part behaviour on a football or any other sporting field, no matter how robust, provided it is within the rules, explicitly would not come under the category of criminal assault. Were it to be the case that players, either on a professional sporting field or for that matter in an amateur sporting context, were concerned that they were assaulted on the field of play, then that would be a matter for complaint to the police and police prosecution, and the Government obviously would not take a view on that. That would be a matter for determination by the police.

I know anecdotally of any number of cases of people from time to time reporting to police assaults on referees and other players, and on occasions I think there has been follow-up and charges laid. But that is an anecdotal matter, and the honourable member could research such matters for himself, or I could obtain some more information for him about that. In regard to parents having confidence in various sporting codes and the safety aspects of various sporting codes, I can give the member some comfort— [*Time expired.*]

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I ask a supplementary question of the Minister for Industrial Relations. Will the Minister clarify which sports are exempt? If a tackle is explicitly prohibited by the rules of the code, does that not become an assault?

The Hon. JOHN DELLA BOSCA: The honourable member is now asking me for a legal opinion. I will ignore that issue and say again that any allegation of assault on, off or near a sporting field would be a matter for complaint to the police. Obviously, the matter would then be investigated and taken up as a police issue. In respect of the first part of my answer, I have clear advice that Australian football, the National Rugby League, professional cricket and rugby union are all specifically exempt under the Sporting Injuries Act.

I was about to give the honourable member some comfort in respect of the last part of his question. In regard to junior sport, parents of children playing the rugby codes, or for that matter any other codes of contact sport, can take comfort from the fact that the Sporting Injuries Committee, which conducts its affairs under the general aegis of WorkCover, does research with and on behalf of all the sporting codes. Academic research is undertaken to look at ways in which advice can be given to the sporting codes to change their disciplinary codes and rules, particularly those that affect junior players. The honourable member may or may not be aware that most of the major football codes have modified their rules for junior sport, and that action has been consistent with advice given to them by bodies like the Sporting Injuries Committee of New South Wales, which does tremendous work on a very limited resource base and gives a considerable amount of advice to sports bodies about how to minimise risk, particularly to junior players.

TWEED HOSPITAL

The Hon. JENNIFER GARDINER: My question without notice is directed to the Minister for Health. Is it correct that less than three years after it was expanded Tweed Hospital is overflowing with patients? Are some patients being sent to Murwillumbah and Mullumbimby hospitals because Tweed Hospital cannot cope? Are some Tweed cardiology patients being funded by NSW Health to be treated in Queensland? Are Tweed neurosurgery and some neonatal babies also being treated in Queensland hospitals? Does the increase in the patient load indicate that the New South Wales Government has seriously underestimated population growth in the State's north-east? What is being done to assist Tweed Hospital cope with demand?

The Hon. JOHN HATZISTERGOS: The premise of the question about planning is wrong. One of the reasons why Tweed Hospital and indeed a number of northern New South Wales hospitals have additional pressure placed on them is that people have come down from Queensland to use the facilities in New South Wales. I can understand why that would be the case. Indeed, the patient flows from Queensland to northern New South Wales have been extremely strong, and that is a product of the fact that New South Wales has a high-quality service, and that is recognised by the people of Queensland. I might add—and I am not trying to deprecate in any way the Queensland health service—that it is a fact that the Queensland health service has come under adverse attention in a number of circles. So it is appropriate that we do what we can to help that service in a number of areas.

It is also true that in Queensland there are tertiary facilities that cater for some of the people from the Tweed and indeed from other areas in northern New South Wales. We do not have on the north coast, for example, facilities of the kind that are available in Brisbane, and from time to time some patients need to travel that far to access tertiary services, particularly neonatal services—one of the services that the honourable member identified. Highly specialised services are required in such fields and the population base on the north coast may not be in a position to support those services. I am not sure of the other details of the honourable member's question, but I will undertake to get advice from the chief executive and provide the honourable member with further information.

PACIFIC HIGHWAY UPGRADE

The Hon. KAYEE GRIFFIN: My question is addressed to the Minister for Roads. Can the Minister provide the House with information on how the Federal budget will affect New South Wales road users?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for this very pertinent question. On projects like the Pacific Highway upgrade the State and Federal governments must work together. We must adopt a co-operative approach. It is for that reason that I met with Federal Minister Jim Lloyd and had a productive discussion on the need to fast-track highway upgrades. This co-operative approach is already bearing fruit. I am pleased to inform the House that last night, following release of the Federal Government's budget, the Premier announced \$320 million in additional funding for the Pacific Highway. Under a joint State-Federal upgrade, the New South Wales Government is committing an extra \$160 million to the Pacific Highway upgrade, matching the Federal Government's commitment dollar for dollar. This is a project of national significance and the New South Wales—

The Hon. Duncan Gay: So you should have. It is a State highway.

The Hon. ERIC ROOZENDAAL: It is interesting that the Opposition should say that it supports the Federal Government not treating it as a national highway. I think that is part of the problem. I believe there is a priority mismatch in that they think the Hume Highway, but not the Pacific Highway, should be a national road. I note that the Hon. Melinda Pavey is deadly silent at this point. The New South Wales Government is backing its commitment to fast-tracking the project with this investment in additional funding. This announcement continues the New South Wales Government's long-running investment in upgrading the Pacific Highway, one of the largest infrastructure programs in the history of New South Wales.

The additional \$320 million is over and above the AusLink funding arrangement for the Pacific Highway, which commits \$960 million over the next three years. Our Governments will soon meet to decide which projects will receive this extra funding. A number of projects have sufficiently advanced planning, and the additional funds will accelerate their completion. Over the past 10 years the New South Wales Government has contributed \$1.66 billion to the Pacific Highway—\$1 billion more than the Federal Government's contribution of \$660 million.

But we are determined to continue to co-operate with the Federal Government on some of our most important roads. Of course, we sometimes differ on priorities. The Pacific Highway is a top priority for the New South Wales Government, while the Federal Government has shown that it believes that the upgrading of the Hume Highway deserves a greater share of funding. We are determined to work together on these projects and I welcome Jim Lloyd's willingness to join us in this latest Pacific Highway agreement.

I also welcome the announcement in the Federal budget of \$800 million for the upgrading of the Hume Highway from the Sturt Highway to the Victorian border. The people of this State have every right to demand that the Howard-Costello Government, the highest taxing government in Australia's history, makes a commitment to investing in regional infrastructure. It is a simple fact that the New South Wales Government would commit greater resources to investing in infrastructure if Costello ended the goods and services tax [GST] rip-off, which costs New South Wales taxpayers \$2.5 billion every year. Even the Reserve Bank governor agrees that this system is a rort. So while we welcome the \$800 million for the Hume Highway we will call on the Federal Government to make a greater ongoing commitment to the AusLink program with its massive petrol and GST revenue.

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

FEMALE CHILDREN IN CARE REPRESENTATION IN JUVENILE DETENTION

The Hon. TONY KELLY: Earlier today I was asked a question by the Hon. Dr Peter Wong regarding the 39 per cent of female prisoners who had been in juvenile justice centres and are currently in the care of the State. I have previously answered a question on notice relating to this subject, but for the benefit of the House I add that many young people in custody have a range of welfare issues that may have contributed to their offending behaviour. However, these young people are in custody because they have been charged or sentenced by the courts for a criminal offence. The Department of Juvenile Justice works with a variety of other government and non-government agencies to address the factors in the offending behaviour of juveniles.

With regard to young people who are in the care of the Minister for Community Services, the department has a memorandum of understanding with the Department of Community Services (DOCS) that promotes a collaborative approach to joint case planning and service delivery. With regard to young women in juvenile detention, the Girls' and Young Women's Action Plan addresses the particular needs of girls and young women, which may include welfare issues and involvement with DOCS. The Young Women's Advisory Committee provides ongoing advice on the implementation of the strategies identified in the Girls' and Young Women's Action Plan. DOCS is represented on this committee and can provide advice on the specific needs and issues facing young girls and women under the parental responsibility of the Minister for Community Services.

DEFERRED ANSWERS

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

ELECTRONIC HEALTH RECORDS SECURITY

On 5 April 2006 Ms Sylvia Hale asked the Minister for Commerce, representing the Minister for Health, a question without notice regarding electronic health records security. The Minister for Health provided the following response:

No. The attributed remarks are inaccurately referred to.

DEPARTMENT OF CORRECTIVE SERVICES REGIONAL COMMANDER COURT ATTENDANCE

On 5 April 2006 the Hon. David Clarke asked the Minister for Justice a question without notice regarding the Department of Corrective Services regional commander court attendance. The Minister for Justice provided the following response:

Department of Corrective Services' employees are under an obligation to report to the Department of Corrective Services if they are charged with a serious offence. The Department may take such action as it sees fit in particular matters.

I am advised that the Commander attended court but did not give evidence.

The Department advises me that the officer reported his offence to the Department. The Department's policy is to allow the law to run its course and then decide whether disciplinary action is to be taken. I am advised that now that the court matter is finalised, appropriate action is being taken.

POLICE SHIFT HOURS

On 5 April 2006 Reverend the Hon. Fred Nile asked the Minister for Roads, representing the Minister for Police, a question without notice regarding police shift hours. The Minister for Police provided the following response:

In settling the last police salaries Award, agreement was reached with the NSW Police Association to review rostering guidelines. This review is already well underway. I look forward to receiving the report.

ILLAWARRA STROKE UNIT PROJECT COMMITTEE PLAQUE

On 6 April 2006 the Hon. Don Harwin asked the Minister for Commerce, representing the Minister for Health, a question without notice regarding the Illawarra Stroke Unit Project Committee plaque. The Minister for Health provided the following response:

I am advised by the General Manager of the Northern Illawarra Hospitals Group, the 8-bed Stroke Unit was opened on 26 May 2003. It should be recognised that the Unit is funded under the Greater Metropolitan Clinical Taskforce Program and through South Eastern Sydney and Illawarra Area Health Service annual recurrent funding; however the capital/equipment on loan from the Illawarra Stroke Unit Project Committee is most appreciated.

The Illawarra Stroke Unit Project Committee is a community organisation incorporated to fundraise under the authority of the Department of Gaming and Racing and raises funds independently of the hospital. There has been no approach to the hospital regarding the purchase, or appropriateness of the plaque to its finalisation by the chairperson.

The General Manager of the requested the Project Committee supply a list of equipment they claim as 'donated' to the unit, to acknowledge the equipment on loan by way of a small plaque, as is the policy relating to donated goods. However, it should be noted this offer has not been acknowledged to date. The chairperson has advised the General Manager the equipment purchased by the committee is a "loan only" basis and the ownership remains with the committee.

Questions without notice concluded.

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

GENERAL PURPOSE STANDING COMMITTEE NO. 4**Report: Management of the Sydney Harbour Foreshore Authority****Debate resumed from 5 April 2006.**

Ms SYLVIA HALE [2.30 p.m.]: I was a member of the committee inquiring into the management of the Sydney Harbour Foreshore Authority. The committee was established largely as a result of great community disquiet about what was happening both at Luna Park and at the Water Police site at Pyrmont. Unfortunately I think many of the community activists who gave evidence to the committee would have felt somewhat sold short by its recommendations, because what they could see happening before their eyes was a pea and thimble trick.

In relation to every development application or proposal the authority dealt with, it consistently hid behind the suggestion, or the curtain, that all it did was make recommendations to the Minister for Planning, and it was none of its responsibility whether the Minister followed up the recommendations, even though it is required to fund itself by the sale of land and to provide dividends to the Treasury from those sales.

When questioned, neither the Minister nor the authority could give any evidence of where the Minister had failed to agree with the recommendations of the authority. It was an ideal situation for the authority. It could somehow discount any responsibility for what was occurring, but in the meantime the residents of North Sydney, Pyrmont and other places around the harbour could see that public land and public facilities were being sold off. On one occasion the chief executive officer of the authority showed the committee a slide that made it clear that in areas of intense residential development almost all public space had been removed from high-density population areas and transposed to areas to the west, far away from people's residences. While the authority could claim that it was providing public open space and providing amenities, in fact it was doing so in a way that deprived people of access to what would be genuinely useful areas of open space next to where they live.

The inquiry was prompted in part by disquiet over what was happening at Luna Park. It was very clear that the concerns of the residents of North Sydney were in no way resolved, answered or set to rest by the authority, so much so that even yesterday members of the crossbench were briefed by a number of residents who had been active in relation to the Luna Park development and said that all the concerns and worries continue. They say there is a prospect of so many deals that have been advantageous to Multiplex being entered into that public control and ownership of land has been removed from the authority and handed to corporations such as Multiplex—all in the context of Multiplex, if it so chooses, having done all the development that it wishes at the Luna Park sites, being able to decide when it has no more interest in the site and sell off its interest. Indeed, Multiplex's disastrous experiences at Wembley in London may provoke it to sell its land and assets.

Reverend the Hon. Dr Gordon Moyes: How much did it pay for the land?

Ms SYLVIA HALE: I think it was \$1 for million-dollar assets. The company will be able to sell off the site, walk away and say, "Sorry, it is no longer feasible for us to continue to operate a funfair. It is no longer feasible for us to operate Luna Park." There will be absolutely no restriction upon the corporation to prevent it from doing that. So much of the land that was originally set aside for Luna Park is occupied by office buildings that, should Multiplex walk away from the site, it would be almost impossible for Luna Park to continue to operate.

The residents feel they have indeed been sold a pup. They say the Government is pursuing this course of action even though it has been warned time and time again of the likely results of its decision. The residents also feel that the inquiry did not manage to bring to public view many of the important contracts and deeds that had been entered into by the Luna Park Reserve Trust. Indeed, as a result of a call for papers, documents were made available to this House but, unfortunately, because of claims of privilege and claims of commercial in confidence, et cetera, members of the public who were most keen to see those documents have been denied access to them. Even members of this House who have read the documents cannot convey their contents to the people who would have the greatest interest in knowing about them.

At page 60 of the report an indication of evidence received from the Audit Office states, "The Audit Office believes the lack of a comprehensive harbour plan is a subset of a broader, more pressing problem: the lack of a plan for the whole of Sydney ...". The problem identified by the Audit Office is still with us today: the lack of a comprehensive plan for what will happen to Sydney Harbour as a whole. The Government has made pious statements about wishing to retain Sydney Harbour as a working harbour, but currently it appears to be entertaining a whole series of developments here, there, and everywhere, with no comprehensive overview of whether they are appropriately sited, what effect they will have on people or industries in the vicinity, or whether by choosing to promote or accept a development proposal from one entity, that in effect will stifle development by another.

These things are being ignored, to the detriment of the Government. There was an extraordinary amount of discontent over the proposal by ICL to establish a bulk cement terminal at White Bay, and that has been followed by another proposal to establish a refuelling depot. It is not appropriate at this time to say whether either proposal is suitable. However, they are indicative of the absolute lack of planning by the Government.

The motivations of the Sydney Harbour Foreshore Authority are to maintain its activities and return dividends to Treasury by the sale of public assets. But that gives us no confidence whatsoever that developments around and on the harbour will be consistent with any well thought-out vision of what should be allowed in those areas. It is very concerning that the authority could always pass the buck to the Minister and say, "Any of our recommendations were not our responsibility. It was up to the Minister to approve or reject them." Invariably the Minister approved the authority's recommendations.

It is particularly worrying that the Sydney Harbour Foreshore Authority has been the template for the Redfern-Waterloo Authority; they are similar in that they are both self-funded from the proceeds of developments and the sale of land and public assets. Any developments undertaken by the Sydney Harbour Foreshore Authority had to be approved by the Minister. However, in the case of the Redfern-Waterloo Authority the Minister has delegated approval authority to, presumably, the chief executive officer of that authority. That is a recipe for, again, an extraordinarily visionless, short-sighted, anti-democratic process of development in Redfern and Waterloo in which the interests of the residents and the community will come last. Evidence of that can be seen in the Government's treatment of the Aboriginal Housing Company Limited. [*Time expired.*]

The Hon. AMANDA FAZIO [2.40 p.m.]: It was not my intention to speak in this debate but I was doing some paperwork in my office when I heard the comments of the Hon. Sylvia Hale and I could not help myself: I had to come into the Chamber to make a few comments. I had the misfortune to attend a few meetings of General Purpose Standing Committee No. 4 as a substitute for other Government members. That committee became a real case of people desperate for an issue to latch onto, trying to find something controversial on which they could upset a few local residents, or respond to a local issue and try to beat it up into a conspiracy theory against corporations, government, planning, and everything else under the sun.

It is worthwhile noting that the committee met on Friday 2 April 2004 and resolved to hold this inquiry. It then took quite some time to arrange to do that, although it did place advertisements. The committee did not meet again until Friday 2 July 2004. In the main that was because it had become besotted with another controversial inquiry and the members of the committee thought they could have their pictures on television or in newspapers more often. They anticipated publishing a few more inflammatory press releases. The people to whom the committee originally was responding in the inquiry into the management of the Sydney Harbour Foreshore Authority were relegated; they were given a lesser priority by those very community-minded, community-spirited, anti-development, conspiracy theory fanatics who drive so many inquiries.

Finally the committee began its inquiry. By that time, half its original intent was no longer relevant because it had evaporated through natural causes. The committee then got to looking at what else it could beat up about the operation of the authority. Given the inflammatory comments of Ms Sylvia Hale, one would expect there to have been a whole raft of recommendations about a wide range of issues. But, no, there really is not. The report makes five recommendations, which I believe are not really unreasonable. Why are they not unreasonable? They were not supported by Ms Sylvia Hale; she wrote a dissenting report because her original intent in supporting the establishment of the inquiry was to find some scalps to flash in front of the media, to try to blame the Sydney Harbour Foreshore Authority for all the evils under the sun.

I am sure Ms Sylvia Hale had a conspiracy theory about the former chair of the authority, and that is part of the reason she was sure something untoward and corrupt was going on. Of course, the committee investigated those issues and determined that there really was not much going on in the Sydney Harbour Foreshore Authority. The committee made five recommendations that, in the main, are not too bad. Anyone who believed the contribution by Ms Sylvia Hale and has not read the report or the minutes of the report would think that something very odd had been going on with the management of the Sydney Harbour Foreshore Authority. Quite simply, that was not the case. There is no major conspiracy; there is no proposal from Multiplex, from what I understand, to withdraw from the operations of Luna Park as an entertainment venue. The hypothesis upon which most of the contribution of Ms Sylvia Hale is just that: sheer, wild, unsubstantiated speculation that deserves to be given absolutely no credence. I urge honourable members to read the report of General Purpose Standing Committee No. 4 entitled "Report on Inquiry Into the Management of the Sydney Harbour Foreshore Authority", make up their own minds, and ignore the hysterical rantings of Ms Sylvia Hale.

Motion agreed to.

JOINT COMMITTEE ON THE OFFICE OF THE VALUER-GENERAL

Report: Second General Meeting with the Valuer-General

Debate resumed from 13 September 2005.

The Hon. DON HARWIN [2.47 p.m.]: In July last year the Joint Committee on the Office of the Valuer-General tabled its report on its second general meeting with the Valuer-General. I served on the joint committee from February 2003 until September last year. I take this opportunity to formally thank the staff for

the assistance they provided me during that period, and I thank also the Hon. Kayee Griffin for her chairmanship of the committee. At the time the committee was established, the Parliamentary Secretary in the other place explained that the function of the committee was "to oversee the functions of the Office of the Valuer-General and to ensure the independence of that office". He further commented:

Honourable members may be aware that in recent years the quality and independence of the valuations undertaken at the direction of the Valuer-General have been open to speculation from some quarters. To ensure the community's continued confidence in the Office of the Valuer-General, the Premier announced the creation of a joint committee of Parliament that will have the power to monitor and review the functions of the Office of the Valuer-General.

Although the committee was established with that purpose and function, it is with some frustration that I report to this House that while I was a member of it I do not believe the committee ever really got on top of the significant anger in the community about the problems with the valuation system. While the issue of objection management was addressed in one of the report's six findings, the matter was not the subject of any recommendations. Instead, the report simply refers to the Valuer-General making improvements to land valuation objection management, notes that there are resource needs to be addressed to sustain effective objection management, and indicates that the committee will monitor the provision of resources by the New South Wales Government.

However, the committee made worthwhile progress on other key issues. I particularly draw honourable members' attention to the sections of the report concerning valuation contractor management. The Valuer-General tenders 19 contract areas in New South Wales to valuers to provide land valuation services. At the committee's first general meeting in October 2004 the Valuer-General outlined a review of tender processes and contract documents. Among the more useful aspects of the committee's second general meeting in May 2005 was the opportunity to seek further information on the review of valuations in Minnie Water and Diggers Camp in the Clarence after a series of objections relating to those villages was brought to the committee's attention.

To give some background information for the benefit of those honourable members unfamiliar with the townships in question, Diggers Camp is a village with no electricity, no curbing or guttering and no sewerage. It is accessed by way of five kilometres of dirt road. Many blocks in the town remained undeveloped. Yet owners whose land was valued at \$55,000 in 2001 were notified of valuations of \$300,000 in 2004. This represented a staggering \$245,000 increase in just three years. In July 2004 the Valuer-General initiated a review of the valuations, which was overseen by a district valuer from Land and Property Information. The review confirmed that land valuations in Minnie Water and Diggers Camp were too high in a number of cases. The review also concluded that in a few other cases the valuations were too low. In the case of Minnie Water, the review investigated 172 valuation assessments, of which 64 were adjusted. The number of valuation assessments adjusted represented 37.2 per cent of those investigated. Of the 64 assessments that were revised, only 19 were increased. A total of 45 assessments were examined in the town of Diggers Camp. Almost half of these assessments—22 in all—were adjusted. None of the valuations at Diggers Camp were increased as a result of the review.

The review concluded that there were two primary reasons for the excessively high valuations. The first was that a number of properties were assessed on the basis of an inappropriate grouping. For example, some properties that previously had wide sea views but which now do not were grouped with properties that continued to have extensive sea views. The second reason was insufficient comparable sales evidence for the contract valuer at the time of completing the valuation. The second general meeting with the Valuer-General gave the committee the opportunity to seek further information about penalties for contractors in light of the review. Potential penalties for contractors include cancellation of the contract; loss of the performance bond, which equates to 15 per cent of the annual fee paid for service; and negative scorecard performance notes.

In the case of the Minnie Water and Diggers Camp overvaluations the contractor has been penalised in the scorecard performance notes. Negative comments recorded in the scorecard notes can significantly hinder the contractor's chances of having the contract re-awarded. As a result of the review into the Minnie Water and Diggers Camp valuations, the Valuer-General commissioned Land and Property Information to examine other isolated coastal settlements. I am aware of areas on the South Coast such as Bendalong, Currarong and Culburra Beach—which is larger—that share some similarities with Minnie Water and Diggers Camp. I have received numerous representations from those communities so I am delighted that the Valuer-General commissioned this review. The validity of valuations was confirmed in most cases but minor adjustments were recommended for several areas within Port Stephens and Lake Macquarie. On the issue of contractor management, the committee found that improvements were being implemented and that, generally, accountabilities for valuers were being improved through government regulations. However, the committee expressed the belief that:

... more needs to be done to keep valuations accurate in terms of reflecting changes in property characteristics and the Council's planning intentions for adjacent development.

Despite this belief, the committee made no recommendations in regard to contractor management. Other findings made by the committee in the report included comments on the potential impact on local government financial management of changes to valuation pricing, and the need for the New South Wales Government to examine further the collective impacts on local government of reforms being implemented by the Valuer-General with respect to valuation pricing, water rights separation and contractor relationships. Legislation on water rights was subsequently introduced. The committee also commented on improvements to the mechanisms by which the Valuer-General provides information to the public and about the benefits of an annual performance report provided by the Valuer-General to the public.

As the Joint Committee on the Office of the Valuer-General is constituted to operate only until the end of the fifty-third session of Parliament—that is, until early next year—there is considerable value in the suggestion that the Valuer-General provide an annual performance report. As the committee noted, such a practice would assist in maintaining public accountability and confidence in the Valuer-General's activities. I commend the report to the House and I am grateful for the opportunity to serve on this committee.

The Hon. KAYEE GRIFFIN [2.56 p.m.]: The second report of the Joint Committee on the Office of the Valuer-General was tabled in July 2005. The report highlights the committee's role and work program, and information on activities of the Office of the Valuer-General that are relevant to the committee's terms of reference. The second general meeting report outlined the committee's ongoing concerns and initiatives. It also included reports prepared by the Valuer-General and transcripts from the committee's meeting with the Valuer-General on 19 May 2005. The second general meeting report focused on six key issues that I will outline to the House.

The first issue is the quality of objection management by the Valuer-General. The committee heard that objection rates had risen since October 2004 from a low base of 0.5 per cent to 1.2 per cent of the number of land valuation notices issued. The turnaround time for objections is targeted at 90 days. However, at the second general meeting the committee heard that only 40 per cent of the objections were turned around in this 90-day period, which was disappointing. However, the Valuer-General highlighted two new programs designed to streamline objection management and improve objection turnaround times. These processes will standardise information in objection forms to help fast-track assessments. Furthermore, the Valuer-General advised that an additional \$2.55 million would be allocated to the Department of Lands to provide additional resources and staffing to accelerate the processing of objections.

The committee also sought information about groups or concentrations of objections within certain areas. The Valuer-General revealed that quality checking systems that were now in place would identify concentrations of objections. From this information the Valuer-General can trigger a re-examination of individual valuations or groups of valuations. Overall, the committee reported that the Valuer-General is making improvements to land valuation objection management, and is open and responsive to issues regarding collective valuations. Importantly, the State Government is providing resources to improve objection management.

The second issue examined by the committee was the management of contract valuers by the Valuer-General. New South Wales is currently divided into 19 contract areas. The Valuer-General issues tenders to contractors to provide valuations in those areas. The committee's terms of reference include the monitoring of the quality of these valuation service contracts. The committee has been made aware of continuous modifications introduced by the Valuer-General to improve contract performance. These include additional penalties for contractors, such as the loss of performance bonds for contractors who are failing to meet requirements. Another new contract mechanism is scorecard performance notes that are attached to contracts and can impact on the renewal or extension of contracts. The Hon. Don Harwin referred to these. Furthermore in April 2005, the Government introduced the valuer registration regulation, which applies a code of conduct for all valuers practising in New South Wales, including valuers who have contracts with the Valuer-General.

The Valuer-General also provided information to the committee about a new structural review of valuations in isolated communities, triggered by group objections for the Diggers Camp area. The validity of valuations was confirmed for most regions with minor adjustments recommended for several areas within Port Stephens and Lake Macquarie. The committee supports the Valuer-General's proactive approach in initiating this review of isolated communities. However the review reveals that improvements are necessary to encourage contractors to maintain up-to-date knowledge of changes within contract areas.

Overall, the committee found that the Valuer-General is implementing improvements in contractor management. More generally, accountabilities for valuers are being improved through government regulations. However, the committee believes that more needs to be done to keep valuations accurate to reflect changes in property characteristics and the council's planning intentions for adjacent development. The committee will also monitor the integrity of valuations in isolated coastal communities.

The third issue considered by the committee in the second meeting report was valuations provided to councils for rating purposes. The Valuer-General provides valuations to local councils for calculation of council rates. Councils are charged a price per valuation, which has been determined by the Independent Pricing and Regulatory Tribunal [IPART]. At the second general meeting, the Valuer-General informed the committee that a review of the price of valuations would be initiated by the Valuer-General. The review would also consider the prices charged to the Office of State Revenue for the supply of valuations. The committee believes that changes to valuation pricing may significantly impact on local government financial management. The committee feels that these impacts need to be explored thoroughly as part of any review of valuation charges to councils and to the Office of State Revenue. The committee sees that the review of a valuation pricing methodology should be transparent and consultative, and outline the Government's principles for pricing.

The committee noted its support for the Valuer-General's pricing review with the proviso proposed by the Independent Pricing and Regulatory Tribunal that IPART retain some powers to resolve any disagreement between the parties in the transition to a new pricing structure. A related issue that affects the total cost of valuations is the frequency with which valuations are provided to councils. At present most councils receive valuations every three years to calculate rates. The Office of State Revenue is provided with valuations annually for land tax assessment purposes. The committee is aware that these different land value cycles mean that different valuations for a particular year may be sent to property owners and that this may cause confusion. If valuation cycles were to be changed the ramifications for council rating systems would be significant.

While there are benefits for transparency and public information, this needs to be weighed against the processing and administration costs to the Government and councils. For example, there would be a substantial cost increase if all councils purchased valuations every year. As a result of those concerns the committee agreed to seek information from key stakeholders about the possible costs and benefits of changing the cycles for provision of valuations for ratings and taxation purposes. In January 2006 the committee commenced a survey of councils on this issue. The committee is currently considering the results of the survey. The committee has shown a strong interest in seeing improvements in public information provided by the Valuer-General.

The Valuer-General has responded with the roll-out of various communication initiatives, which include the creation of a new call centre by Land and Property Information to handle complaints and information queries regarding valuations; the distribution of an annual newsletter to ratepayers via local councils, which includes a summary of market changes in the State, and an explanation of the valuation and objection processes. The Valuer-General has also set up a sales report facility whereby an analysis of recent sales data in a particular location can be provided to the public for a small charge. The committee raised the issue of how to measure the effectiveness of these initiatives, and recommended that the Valuer-General implement a monitoring program to assess the ongoing impact of the public information initiatives.

The final part of the second general meeting report highlighted two issues. Firstly the committee flagged its intention to review the performance reporting of the Valuer-General. The Valuer-General is not required to report on performance other than through the annual report of the Department of Lands. The committee concluded that a separate annual performance report from the Valuer-General would assist in maintaining public accountability and confidence in the Valuer-General's activities. I am pleased to note that the committee completed a review of best practice reporting in November 2005. The review recommended a structure and format for such a report. The Valuer-General has adopted those recommendations. The first Valuer-General performance report is expected in 2006.

The second matter concerns the Ombudsman's investigation. The Ombudsman inquiry was still under way at the time of the second general meeting in May and the committee did not make any substantial comments. The Ombudsman released his report in October 2005. In late 2005 the committee was briefed by the Ombudsman and has agreed to implement specific Ombudsman's recommendations for monitoring of the Valuer-General's activities. Further information about these actions will be highlighted in the forthcoming third general meeting report to be presented to the House by mid 2006.

This second general meeting report demonstrates the committee's commitment to sound oversight of reforms to the Valuer-General's operations. I believe that the committee's reports and initiatives are improving

the transparency and accountability of the Valuer-General's operations and communication with the public. I thank my fellow committee members, Mr Allan Shearan, the honourable member for Londonderry; Mr Steven Pringle, the honourable member for Hawkesbury; Mr Richard Torbay, the honourable member for Northern Tablelands; and the Hon. Charlie Lynn. I particularly thank Gladys Berejiklian, the honourable member for Willoughby, and the Hon. Don Harwin, who have served on the committee since its establishment. I thank the committee manager, Carolynne James, and the secretariat for their assistance and support for the committee since its inception, and I thank the Valuer-General, Mr Philip Western, for his assistance and co-operative approach.

Motion agreed to.

SELECT COMMITTEE ON JUVENILE OFFENDERS

Report: Inquiry into Juvenile Offenders

Debate resumed from 13 September 2005.

The Hon. DON HARWIN [3.06 p.m.]: This was one of the early joint committee reports on which I moved for the House take note under the change I brought about to the procedures committee so that joint committee reports could be discussed. This is a select committee, and it has taken some time to have its reports dealt with as well. In September when this matter was dealt with the chair of the committee was not available and on her behalf I made remarks to keep the debate going. I had concluded what I wanted to say.

The Hon. CATHERINE CUSACK [3.07 p.m.]: The work of this committee highlighted for me the extent to which Juvenile Justice in this State has been the victim of political neglect and mismanagement by the Labor Government for the past 12 years. The policies of the Iemma Government are based on the naïve idea that if left alone young offenders will simply grow out of crime. This flawed philosophy is actually fuelling a growth in hardened youth crime, and polarising our community. In the main, a lack of political leadership has allowed the Department of Juvenile Justice to lose focus on its core business, which is to provide custodial facilities and community-based services for the purpose of implementing court orders against children engaged in criminal matters.

In this State a child is defined as a person under the age of 18 years—I will continue to repeat that very important point. I had hoped that the matter would be addressed by this committee, which heard a lot of evidence about the definition of a child. Members of the committee seemed to be of like mind, but when the report was produced—which I will come to in a moment—I was utterly perplexed and confused on that issue. Members of the committee wanted it both ways: adults as well as children in these facilities. They wanted to support human rights requirements that children be separated from adults, but then they did not want to follow it through in detention centres.

The views of the Coalition and most people—but not Juvenile Justice—is that a child is a person under the age of 18 years. I regret that the committee did not properly address that issue. In the lead-up to, and during, the inquiry many problems in Juvenile Justice were highlighted. They include the fact that each year an average 18 fires are deliberately lit in Juvenile Justice centres. In 2004 an estimated 228 assaults were recorded against Juvenile Justice officers. Those figures were obtained by the Opposition through freedom of information legislation. The Opposition was also able to reveal 114 assaults against detention centre staff and that the department's workers compensation bill increased from \$4.8 million in 2003 to \$5.4 million in 2004. A staff of around 1,000 meant the workers compensation bill was about \$5,400 per staff member, which is extraordinary.

Last year the Coalition also revealed that the Government is spending \$582 of taxpayers money per detainee per day, and questioned whether that was value for money. Value was taken up in the Auditor-General's performance report, which was released in September last year and was referred to during our inquiry. The report found that the Department of Juvenile Justice has no reliable data on reoffending, and therefore cannot know whether its programs are working or not. The report noted that the department does not collect adequate activity data and:

... found no evidence that the Department formally analyses activity data at the corporate level. For example the operational report to the executive contained many statistics but no analysis of what the figures meant.

The Auditor-General also found the department needs to consider follow-up with parents or victims of young offenders to ascertain their level of satisfaction with the system. Virtually no effort was going into this type of

liaison, again demonstrating that this government organisation had lost sight of its core business. It completely forgets about victims. The Auditor-General found also that red tape prevents Juvenile Justice staff from accessing records they need, from tracking young offenders into the adult system, and from liaising with welfare agencies to case plan for young offenders, particularly after their release from the centres. The Auditor-General singled out the Department of Community Services as sometimes needing "persistent chasing", which led to delays in case management for young offenders.

The Auditor-General's report also identified a lack of training for youth justice conference convenors, with consequent inconsistencies in the way that conferences are being run. The Auditor-General's review of case files also showed inconsistencies, which meant that some high-risk offenders are receiving minimal supervision while low-risk offenders were being intensively supervised. The Opposition sought to investigate this issue further during the inquiry. Unfortunately, again due to time constraints imposed on the committee by Government and crossbench members of the committee, we were unable to delve into this type of very important issue. I expressed my disappointment in that regard.

A recent report by the Bureau of Crime Statistics suggests that the Juvenile Justice system is failing, with a court reappearance rate of 68 per cent for young people whose first court appearance was in 1995. For indigenous offenders the rate was 93.2 per cent, a tragic figure, which suggests the system is totally failing to rehabilitate Aboriginal young offenders. The response of the Labor Government has been to lie and cover up the problems, including the dangers posed to staff in those centres and the cost of the damage to those centres.

The personal abuse heaped upon those who sought to expose the truth of what was going on in Kariong, for example, was simply extraordinary. The Opposition had worked with whistleblowers to expose a complete breakdown in discipline at the Kariong Detention Centre, in which workers were being injured and detainees were running riot, only to be rewarded with pizza deliveries for the entire centre every time there was a major incident. Initially, all of this was denied and covered up by the then Minister, Diane Beamer. It was only after the Opposition revealed evidence of violence, drug abuse and a sex act committed by a gang rapist in the visitors room—claims also denied by the Minister but retracted when videotape evidence was produced, at which point the Minister became willing to concede there was a problem—that the Government was forced to transfer management of the Kariong Detention Centre to the Department of Corrective Services.

That transfer decision came out of the blue for many workers, and certainly out of the blue for the department and the many agencies associated with the Juvenile Justice system. During our inquiry we heard from witness after witness, ranging from chaplains to the legal representatives of the young people, including the Government's own Juvenile Justice Advisory Committee, just how offended, insulted and shocked they were that such a decision would be taken without any consultation whatsoever. Indeed, that decision has not been able to be documented; it is hidden behind Cabinet confidentiality. However, it is very clear that whatever went on behind those closed doors was not supported by professional advice. As a result, the legislation that came to this House in December 2004 was presented in an atmosphere of considerable confusion and anxiety. This House agreed to pass the legislation, having agreed to my amendment, the aim of which was to establish a select committee to further inquire into the issues, because the legislation left behind so many loose ends at that time.

I do not have time to go through the full report of the committee. However, I will highlight some interesting issues. The Kariong Detention Centre was a maximum security facility accommodating up to 40 the detainees. When it was managed by the Department of Juvenile Justice, Kariong's budget was \$6.288 million and it was staffed by 101.05 full-time equivalent staff. It is important to note that this excludes staff at the centre who were employed by the Department of Education and Training and also by NSW Health staff who were contracted in by Justice Health. In contrast with the 101 staff and a budget of \$6.288 million, the Department of Corrective Services today operates Kariong with 41 equivalent full-time staff positions, at a cost of \$3.872 million. This means that Corrective Services has achieved a 40 per cent reduction in operating costs at Kariong, or a saving of \$2.4 million a year. The cost per place has declined from \$438 a night to \$274 a night.

When we visited the centre we found the detainees, the staff and everyone surrounding them were so much happier being managed by Corrective Services. That is well documented in our report. Detainees told us that they felt safer with fewer staff, less noise being made around them and more consistency in the way that rules are being applied. That makes the important point that it is not a matter of money, but one of procedure and good management. It is a shame that all of the money being invested in creating custodial chaos in the centres is not being spent more wisely on programs that would prevent crime in the first place or rehabilitate young offenders. In some senses, too much of our precious resources are being spent on creating chaos and turmoil. We need to go back to basics and do things more simply in these centres.

For all the posturing of the Government about what a terrible building the Kariong centre is, and how badly it wanted to close it, but could not, and basically that all the problems related to the buildings, Kariong has been able to function very efficiently under the new management. The millions of dollars that the Government claimed would have to be spent were not needed. In other words, now that the political crisis has passed, the hysterical campaign against the buildings and the need for capital works seems to have evaporated.

I express my disappointment at the failure of the Minister to attend our inquiry and the failure of the department to respond to further questioning. The director general disappeared completely in the middle of the inquiry, and the director of operations was overseas. I refer honourable members to the dissenting report of Coalition members on key issues that we felt the committee overlooked. All in all, I would have to say it was frustrating to have had so much good evidence but to be unable to properly deliberate on sections of this report.

Debate adjourned on motion by the Hon. Henry Tsang.

GENERAL PURPOSE STANDING COMMITTEE NO. 2

Report: Post School Programs for Young Adults with a Disability

Debate resumed from 13 September 2005.

The Hon. PATRICIA FORSYTHE [3.17 p.m.]: I am pleased to make some comments, as Chairman of General Purpose Standing Committee No. 2, on the report of the committee's Inquiry into Post School Programs for Young Adults with a Disability. This was a most significant inquiry. It afforded a very good opportunity for parents, carers and people with a disability to express in clear and open terms the impact of the Government's then proposed changes to post-school disability programs. Those changes would have meant real and significant cuts, principally in funding but I suspect as well in the choice of programs that were to be available as a result of those funding cuts. The consequence of the committee's inquiry was, first, that it enabled people to articulate a position far more clearly than maybe the Government had heard to that point. The bureaucrats may have heard such articulations, but I believe the committee's work pricked the conscious of the Minister and others in the Government.

Evidence given by people with a disability and their carers really brought into focus the problems experienced by families of people with a disability—a disability that is unlikely to change, a disability that will not just go away and has to be managed by families and carers and, ultimately, sometimes by the Government. I really am so grateful to those who appeared before the committee. The committee undertook a number of site visits, including visits to a number of places that offer programs. We sat down with people with a disability and conducted public forums at which people not sworn in as witnesses, as is sometimes the case, were able to express to the committee in an open and frank way what was involved in providing the level of support that they needed to provide for their adult children, their adult siblings or someone in respect of whom they were in a caring role. The committee was also able to hear from people with a disability.

Post-school programs have been in existence for approximately a decade, as we heard earlier today during the debate on the Appropriation (Budget Variations) Bill. The programs are designed to support mostly people with an intellectual disability when they leave school—to help them to face the future. It is hoped that some of these people will be able to make a transition to work, and a program for that purpose was put in place, initially for a period of two years. The problem with that arrangement, however, was those in the program who could not make the transition in the required time were out.

Then, at a different level, there was to be an ongoing program. Under the changes that were proposed by the Government, in respect of which the committee was undertaking its inquiry, the programs were to be available for most of these people, some of whom have profound disabilities. The circumstances for these people will not necessarily change, they will not necessarily be able to move forward and make the transition to work. They require a level of program that provides for their care and maintains their interest and also provides an opportunity for day respite for their carers. It is not an easy situation; it is one of the most complex areas of government.

I thank the members of the committee who participated in the inquiry—the Hon. Tony Catanzariti as deputy chair, the Hon. Dr Arthur Chesterfield-Evans, the Hon. Jon Jenkins, the Hon. Christine Robertson, the Hon. John Ryan and the Hon. Henry Tsang. We worked together in a strong and co-operative manner and were well supported, as always, by the committee secretariat. I am grateful that the Government's response to this

report, which was dated 15 March, acknowledges that some things had to change. I give due credit to the Government for recognising that the situation as it existed was not good enough, certainly not for people with a disability and their carers, or indeed for the program providers in the many centres who were trying to do so much with so few resources.

The Government has responded appropriately and has taken on board many of the 17 recommendations of the committee. That is not to say that the outcome at this stage will be a giant leap forward for people with a disability. The jury is still out on whether the Government will implement all the recommendations, but I can say that at least there is acknowledgement by the Government that the situation was quite simply not adequate. I pay due regard to the Minister for listening to what the committee had to say. Those in the media and elsewhere who think the role of the Legislative Council is that of a useless appendage to the role of government, might take the opportunity to read some of the reports produced by the committees of the Legislative Council—and this report is a good example. They might just change their minds.

The committee's program took us to centres as diverse as Wagga Wagga and Armidale. We received a total of 154 submissions from people who were just immersed in the issue, and we devoted hours of committee time to the task—more time, I suspect, than any level of government, even the bureaucrats specifically charged with the oversight of the program. We were able to step back and examine the issues dispassionately, and then move forward together. Members of the committee were privileged to hear from some of the parents and carers of people with a disability, who opened up their hearts to us about what it meant to care for people with a profound disability. The committee made a genuine effort to understand the situation that was presented to it, and it found that what was being offered to these people was just not good enough.

I congratulate the Government on its announcement today of a \$5 million enhancement of the post-school program. But, that will not be enough. It is never enough when you are dealing with people with this level of disability, but it is recognition of the fact, as identified by the committee, that the problems for families of people with a disability are unsustainable. I will continue to monitor the situation. As I said, people opened up their hearts to us at the forums we conducted. The committee took the very bold step of providing a summary in plain English at the beginning of our report so that the people with a disability who participated could see that we had taken on board many of their issues.

I am absolutely passionate, as is my colleague the Hon. John Ryan, about moving beyond seeing everything in terms of delivering a program for, as it were, a class of people. We are dealing with people with very different needs—the needs of families, carers and individuals, as well as the specific needs of people with very complex problems arising out of their disability. I urge the Government to look in particular at the Western Australian model, in which funding programs have been tailored on the basis of specific needs of people with a disability, and people are able to come forward and make specific requests about the nature of funding.

The Government's response noted the Western Australian model. Indeed the Government has indicated it is prepared to look at—and I am sure by now it is looking at—that model of individual funding packages. That would be a huge step forward for people with a disability in New South Wales, because it would be recognition that, although we are dealing with a class of people, each is as individual as the members of this Chamber and others in the community. It should not be a case of trying to put round pegs into square holes, yet so often that is the effect of block funding for people with a disability. By being flexible and creative people with a disability are often able to devise their own solutions or to work with their carers to come up with solutions. We documented in our report a couple of examples from Western Australia, which has developed a flexible model of program delivery. And that I am sure, at the end of the day, would be the best outcome for everybody concerned.

This most interesting inquiry showed that people can make a difference. We, as parliamentary members of that committee, and those with whom we became involved, made a difference. In my view we required the Government to stop and look at this most complex issue—and I do not resile for one moment from the fact that it is complex. I believe the outcome of the committee's deliberations will be a more flexible delivery of programs in a very complex area. However, as I said, the jury is still out on whether the Government will deliver on all that has been promised, but there has been a recognition by the Government that not only more money needs to be found but also an examination of how the programs are delivered has to be undertaken.

As always, the committee was well supported by its secretariat. The committee would not have been able to do what it did, if it did not have the support of its secretariat and the advice that it took on board from consultants with special training in disabilities. It is my privilege to commend to the House this report into changes in post-school programs of young people with a disability. I was my privilege to chair the committee.

I look forward to hearing the contributions of my committee colleagues because I am sure they all, as I did, learned much from interacting with carers and people with the most profound disabilities, 24 hours a day, seven days a week. In some cases we were able to see beyond their school days—to the future, where many will make very strong contributions to their communities while others, because of the nature of their disabilities, will have to be given a level of support that the Government finds difficulty in funding on all occasions.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.31 p.m.]: This was a very interesting inquiry and the committee's report is extremely valuable. The words "Getting a Fair Go" were included in the title to indicate that we were examining the deal that people with disabilities in our society receive as opposed to the deal that they ought to receive. It is important to put these inquiries into context because people with disabilities are demanding an increasing share of the budget, and that obviously has to be justified. Historically, the really significant change is in the paradigm of medicine and people who have disabilities.

Prior to World War II people with disabilities often died as a result of bladder infections or bedsores. John Grant, who is one of the great men I have met in my life, set up a spinal unit because he said that people were looking for miracle cures instead of acknowledging that patients were dying of bedsores and bladder infections. He maintained that better hygiene and better beds would drastically reduce the number of deaths. Similarly, the development of neonatal intensive care units resulted in the survival of an increasing number of children with disabilities. Parents either placed their disabled children in institutions and raised money to keep the institutions going, or kept their children at home. Those parents are now in their eighties, and their sons and daughters with disabilities are now in their fifties, and that has created a crisis.

A few years ago this Parliament conducted an inquiry into respite care and the availability of group homes. The inquiry found that, effectively, parents were able to entrust their children to someone else in a group home arrangement. We had deinstitutionalisation accompanied by an expectation that people would not simply move into a minimal stimulation hostel but would try to forge a life for themselves. During the sixties there was a movement that espoused that everyone had rights and that, irrespective of what sort of person one is, one has a right to a decent life. The disability movement was part of the recognition of those rights, and group homes were part of the institutionalisation.

The objective recently has been to give people with disabilities as normal a life as possible within the limits of their capacity. Technology has made that far easier than would otherwise have been the case because it has resolved many problems associated with aspects of movement and transportation. As these developments occur, of course the sky is the limit with regard to costs, and the Government is trying to limit that cost. It is difficult to believe that changes in the Adult Training and Learning After School [ATLAS] and the Post-School Options Program, which the committee was set up to inquire into, were not based on a Treasury realisation that, with the number of people receiving support increasing greatly and a continually increasing number of disabled children leaving school, the costs will increase tremendously. The result has been that an increasing number of people are receiving support.

Funding organisations rather than individuals meant that organisations at a certain level of funding could be squeezed to take more and more individuals for the same level of funding, and that meant that less financial support per head was available. The parents who had fought for the rights of their disabled children for many years were not fooled by such nonsense. Understandably, they kicked up a fuss. That was the starting point for this inquiry. The ATLAS program was designed for developmentally delayed school leavers who, with a little more training, would be able to take up some work options and function adequately to look after themselves.

The Hon. John Ryan: And also be employed.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: They would also be employed in an ongoing earning capacity. The people participating in the Post-School Options Program were assumed to be unable to do that but would maximise their level of functioning without necessarily undertaking employment that would support them financially. The two programs were made available, and all thanks go to the Government for that, but those who went into them were sooner or later discharged from them, and that meant that they either went back to watching television with their parents or into some sort of government-funded hostel or institution, and that was quite unsatisfactory. In essence that was what the committee had to grapple with.

Pursuant to standing orders business interrupted.

APPROPRIATION (BUDGET VARIATIONS) BILL**Second Reading****Debate resumed from an earlier hour.**

The Hon. GREG PEARCE [3.30 p.m.]: One of the Coalition's major concerns is the recidivist nature of appropriation bills throughout the terms of the Carr and Iemma Labor governments.

The Hon. Don Harwin: They are criminals, fiscal criminals.

The Hon. GREG PEARCE: I acknowledge the interjection: they are fiscal criminals. The appropriations were more than \$1 billion in 1996-97, 1999-2000 and 2001-02. Figures compiled by the shadow finance Minister, the honourable member for Southern Highlands, show that the cumulative total of additions from 1995 to the present is \$10.657 billion, which is quite an extraordinary amount to be covered by appropriation bills and Treasurer's Advances. The Coalition has two principal concerns. First, the Government should be able to better predict the amount of money it requires if it manages its budget, and, second, in the context of accountability, very large sums of money are included in appropriation bills without any proper explanation.

A couple of examples come to mind because one would have thought that if the Government had had its act together, it could have properly budgeted for expenditure. One example is the extra payments for drought assistance programs worth \$15 million, timber industry restructuring initiatives worth \$13.2 million, further drought assistance worth \$10.237 million, a New South Wales contribution to the National Exceptional Circumstances Scheme, and timber restructuring initiatives in the Brigalow and Nandewar region worth \$10 million.

On my reading of the bill and its schedules, a number of similar expenditures concern me. For example, in relation to the Ministry of Transport, I cannot understand why the Government and the Minister for Transport, if they had been doing their job properly, would not have known about a grant to the Rail Infrastructure Corporation for restricted lines maintenance, which was allocated an extra \$5 million in the Treasurer's Advance; or the Metropolitan Rail Expansion Program—development and preparatory studies, which was allocated \$4.825 million in the Treasurer's Advance. The Department of Health allocation includes an amount for the Parramatta Justice Precinct. What relationship that has to Health I certainly do not know. The Treasurer's Advance for that precinct was \$13.582 million. Perhaps the Treasurer would explain what that expenditure on capital works for the Department of Health was about.

The Parramatta Justice Precinct was given a further additional expenditure under the Crown Finance Entity of \$17.864 million. It may well be that those payments relate to various financing transactions that the Government has undertaken in relation to developments, including the police headquarters, which have never been properly explained. They are the concerns of the Opposition: the lack of financial management of the Government, and the fact that New South Wales is wallowing in deficit and is the basket case of the Australian economy. Contrast that with the amazing and excellent Federal Liberal-Nationals Government and the way it is managing the Federal economy. The New South Wales Government lacks any ability to predict its expenditure or to explain expenditures, often of the order of \$13 million, \$15 million or even \$36 million.

The Hon. CATHERINE CUSACK [3.41 p.m.]: The Appropriation (Budget Variations) Bill is a very curious bill. The Minister Assisting the Treasurer on Business and Economic Regulatory Reform, Mr Joe Tripodi, did not introduce the bill in the other place. The Treasurer did not introduce the bill in this House. No, indeed the bill started its life in another place by being introduced by the Minister for Education and Training. I am sure there are official reasons why the Minister for Education and Training would introduce this type of bill into Parliament, but I suspect the real reasons relate to the media spin of the Government and the fact that it is an embarrassing bill. Whenever anything gets tough, the Government turns to a good woman to do its difficult work. It is probably flattering to the Minister for Education and Training that she has been asked to take carriage of this bill, but I believe it does not reflect very well at all on the Minister who officially assists the Treasurer in the other place, Joe Tripodi. It was either too difficult for him to deal with, or the Government just did not want that.

The Hon. Duncan Gay: He is not a good woman!

The Hon. CATHERINE CUSACK: No, he is not a good woman, as the Deputy Leader of the Opposition said. I suspect that the Government is just trying to slip this bill through Parliament, and the Minister for Education and Training appeared to be the ideal person to do that. In the second reading speech the Minister said—or as she is not the Treasurer and not formally responsible for the bill, was directed to say:

The Appropriation (Budget Variations) Bill is a key part of the annual budget process. The 2005-06 budget was delivered before the start of this financial year.

That is true, of course. My colleagues have commented that many of the expenses that were paid during the current financial year, 2005-06, ought to have been foreseeable by the Government. That is not the issue I will focus on. I will focus on schedule 2 to the bill, which covers funding blow-outs in the 2004-05 financial year, which, of course, began one year and ten months ago. The budget for those appropriations was determined two years ago, yet in May 2006 we are dealing with legislation to legitimise that expenditure. How is it that the Government is now discovering that it needed an extra \$10.1 million for additional police in the 2004-05 financial year, which ended on 30 June 2005? Where were those additional police?

I remind the House that the 2004-05 financial year ended five months before the Cronulla riots. The time at which the Government is spending \$10 million on additional police, the Government is in complete denial that it needs additional police. Nevertheless, we find out two years after it prepared its budget that it actually spent an additional \$10 million on extra police. Goodness knows where they were because there is no explanation in the Minister's second reading speech about any items in schedule 2. How is it possible that it has taken until May 2006 for the Government to realise that it spent an additional \$10 million on police two years ago?

Schedule 2 makes many additional appropriations for pay rises, and I will comment on some. In the Premier's Department, expenses associated with the transition of administration received \$100,000, and office accommodation for the Inspector of the Independent Commission Against Corruption received \$162,000. Both unforeseeable and discovered only now, a year later. The State Electoral Office received \$1.7 million to relocate the office to new premises to accommodate additional staff. How could that not have been foreseeable? How could that be discovered only now, a year later? In the Attorney General's Department the determination of the Statutory and Other Officers Remuneration Tribunal and payroll tax payments for arbitrators and cost assessors was allocated \$1.232 million. For all those matters the cheques were dated prior to 30 June 2005. The contribution towards the purchase of Yanga Station, in south-western New South Wales, received \$2.095 million. In her second reading speech in the other place the Minister for Education and Training said further:

Throughout the year the Government becomes aware of the requirement to cater for unforeseen and urgent expenditures that were not forecast at budget time.

I concede that the purchase of Yanga Station was not forecast at the time of the 2004-05 budget. The Minister said further:

The bill ensures that there is a transparent process for examining this expenditure.

The claim is that the bill ensures transparency in relation to the purchase of Yanga Station. Nothing could be further from the truth. No-one knows how Yanga Station was financed; no-one has a clue. I suspect Yanga Station was financed from multiple sources, and we do not know the price. Apparently it was not purchased until the following year, so we do not know what money was paid, for what reason, in the previous financial year. We have been given a bill to approve that expenditure.

[Interruption]

The Hon. Duncan Gay: Michael Costa supports this, that is what he is saying. Put him on the record. He has a big mouth, put him on the record.

The Hon. CATHERINE CUSACK: What did the Minister say?

The Hon. Michael Costa: I said, you are digging a bigger hole for yourself in terms of this bill.

The Hon. CATHERINE CUSACK: I acknowledge the Minister's intelligent contribution to this debate and his recognition of the need for transparency. His comment did not throw very much light on the matter at all. My point is that this bill has been presented to us as being in the interests of transparency. Nothing could be further from transparent than this example, which has been slipped through in the appropriate bill by

the Minister for Education and Training. The bill provides an extra \$8.4 million for higher contract cleaning costs. I emphasise that I am talking about the 2004-05 financial year. Goodness knows what the unforeseen costs were. The whole world was telling the Department of Education and Training that it had cut back its budget on contract cleaning by too much.

If honourable members were to cast their minds back that far, they would remember massive disharmony in our schools over that issue. Now, two years later, the Government has presented us with unforeseen and unpredicted expenditure of \$8.4 million for contract cleaning costs. In the Department of Aboriginal Affairs, \$230,000 has been allocated for a "restructure of the organisation following a performance review". Goodness knows what that means. In the Ministry for Science and Medical Research the settlement costs concerning the termination of a sublease at the Australian Technology Park—not very transparent—totalled \$1.25 million.

Apparently an unexpected growth in inmate numbers and "other costs"—that is very transparent!—necessitated the appropriation of an additional \$14.6 million. The Office of Drug Policy received additional funding of \$2.32 million. We have no idea what that was for and now, 18 months after the event, it is too late to ask. The costs of the "centralised Media Monitoring Unit" amounted to \$636,000. Some \$300,000 was spent on purchasing equipment for and fitting out the Office of Alcohol and Drug Policy in the Cabinet Office. Under the Premier's Department budget, the establishment of New South Wales State and public information co-ordination centres cost \$1.065 million.

The Hon. Duncan Gay: They spent an extra \$636,000 on media monitoring and Della Bosca did not even know what was happening in the Central West. Everyone else pulled that information off the computer this morning.

The Hon. CATHERINE CUSACK: As the Deputy Leader of the Opposition said, Government members do not use the media monitoring services that are freely available yet they paid to establish public information co-ordination centres. The Hon. John Ryan pointed out that the Government has spent even more in this financial year consolidating those media monitoring services. The Department of Commerce appropriated \$6.613 million to reclassify recurrent funding to capital funding for the government licensing system. I do not know what that means and I do not know what is going on but I am 100 per cent sure that not one additional service is being provided to the taxpayers of New South Wales. Additional interest on government borrowings totals \$52.681 million.

Schedule 2 to the bill provides for \$175 million in section 22 funding and \$88.4 million from the Treasurer's Advance. The bill seeks to authorise a quarter of a billion dollars of expenditure for the 2004-05 financial year when we should be focusing on the 2006-07 financial year. The Minister claimed that this is somehow normal practice. My point is that it is not normal because it relates to two financial years. One can only assume that the Government is sorting out its budget in this way so it can make arrangements and secure cash flow across two financial years.

The Government delivered the budget for 2004-05 and produced financial statements at the end of the year. I also remind honourable members that a mini-budget was delivered on 6 April 2004. Appropriation bills were introduced and the Treasurer delivered another audit report earlier this year. More financial statements were produced redefining and readjusting the budget and now, on top of that, we must consider this Appropriation (Budget Variations) Bill.

I used to think that a normal budgetary cycle involved the delivery of the budget, which agencies stuck to. Of course, there has always been some room for variations. That is why the Treasurer's Advance—upon which the Treasurer reports to Parliament—was established. The Government then usually gets on with formulating the next year's budget. Yet in May 2006 we are rehashing the 2004-05 financial year. I do not think any financial year in the history of State government was fiddled with more than 2004-05.

I am particularly angry because the April 2004 mini-budget cut the Casino to Murwillumbah rail line to allegedly save the Government between \$3.5 and \$5 million per annum. Our community is totally unimpressed that it suffered that closure and subsequent loss of service—the campaign for its restoration continues—to save about \$3.5 million a year. Two years later we are presented with a bill that appropriates more than a quarter of a billion dollars for budget blow-outs on office fit-outs and media monitoring. That makes me very angry, and it shows where this Government's priorities lie. Turning to my shadow portfolio, let us consider what amounts to a normal budget year for the Department for Women.

The Hon. Patricia Forsythe: What department?

The Hon. CATHERINE CUSACK: Indeed. Two years ago we had a Department for Women. As to schedule 2, I would like the Government to explain to the House at some point in this debate the effect of these budget variations on the 2004-05 financial year. The Minister assured us that these expenditures were accounted for in the audited statements of the individual agencies. But in terms of the total budget position for that financial year, we now know that everything must be redone because these variations will surely alter the budget bottom lines.

As to the Department for Women, I return to the notorious date of 6 April 2004 when the mini-budget was delivered. It announced the abolition of the Department for Women as part of the Government's axe-slash-and-save-money policies. We should view the saving of \$3 million that was achieved from abolishing the Department for Women in the context of the quarter of a million dollars blow-out in that same financial year. We have just learned about that and are now being asked to approve it.

As Reverend the Hon. Fred Nile said, in 2004 the General Purpose Standing Committee No. 1 inquired into the budget estimates of the Department for Women. On 21 May—some eight weeks after the mini-budget was delivered—I attended an estimates hearing where I met some pretty shell-shocked public servants. It was a sorry sight watching professional public servants forced to concede that they had no forewarning of the Government's intention to axe programs and abolish the Department for Women. These were political decisions not based on professional advice.

Some public servants said they had heard news of the cuts the previous day in the media. Others stuck to the line that they did not know what was going to happen until the Treasurer delivered his speech. In spite of their brave faces, it was clear to Opposition members that those officers had no idea how those savings would be effected. The political machine had simply popped out the numbers and it was up to the public servants to explain the savings to the committee and then implement them. During the hearing we spoke to Dr Elizabeth Coombs. When asked what the budget of the Office for Women would be in the following year, she said:

The net cost of service, \$3.165 million.

I then asked what figure she was working towards in the forward estimates, and Dr Coombs replied:

That is the figure that we are working towards, the net cost of services figure.

I said that that anticipated the transition costs and she interrupted to say:

That is the budget from 1 July for the Office for Women.

I said:

But that will include funds that you will need to make staff redundant, to pay staff, because obviously they will not just drop off on 1 July, they will still be there and need to be paid until some arrangement has been made?

Dr Coombs replied:

Some of those funds may need to be used for that purpose if, for example, voluntary redundancy does proceed or other things occur. In the planning process we are looking to see what transition costs can be incurred in this financial year, and that is still something which, as I indicated, is being resolved.

The Chair then asked:

Does that figure include the grants, or is that a separate figure?

Dr Coombs basically indicated that the figures concerning grants had not been determined and that the Minister had made a "very strong commitment" to maintain the grants program. Of course, we now know that the grants program was cut from \$1.155 million to \$150,000—which hardly justifies the title "grants program". Even though the Minister had made a "very strong commitment" to the grants program, that did not save it. We then asked about the physical accommodation of the new Office for Women and whether it would be located within the Premier's Department or the Cabinet Office. Dr Coombs made the interesting comment:

No, it is the Premier's Department. The Director-General of the Premier's Department says he considers it a very high priority and it will be reporting at the most senior level that he can possibly organise.

Twelve months later we had mini-budget mark II in the form of the Treasurer's audit report, which was delivered in February. That is when we found out how committed these people were to giving the Office for Women senior level access.

I should mention that Dr Elizabeth Coombs told our committee that, even though it did look like its budget had been cut to pieces and its staff had been reduced, many of those things would be mitigated by the fact that it was going to be a senior part of a central agency, so those were the offsets for financial and physical losses. What did that well-known feminist and champion of rights, the Treasurer, do when he announced his overdue audit in February this year? He decided that he would further denude the Office for Women, which at that stage was left with just 14 staff, by a reduction in its grants program to \$150,000, and he stripped its status by removing it from the Premier's Department.

According to the description in the audit report, the office was to be a community development agency within the Department of Community Services. The criteria identified a group with the shared objective of providing assistance to communities and disadvantaged groups—that is now going to be the work of the Office for Women—that would build on the Government's 2004 initiative to establish the community's division of the Department of Community Services. This aimed at planning the integration and delivery of the Government's community development efforts and would include responsibility for administering community grants. Similar responsibilities for pensioner concessions could be centralised into this agency. The Office for Women—no longer a highly placed part of the central agency overseeing whole-of-government initiatives—was toppled into a community development agency that looks after grants and concessions, including its own measly \$150,000 grants program. That was done in a timely way so it could be revealed and discussed on International Women's Day.

I advise the Treasurer that women in New South Wales are not at all impressed by this Government's lack of commitment or by its renegeing on even its meagre commitments made only two years ago. I have referred at great length to the evidence of Dr Elizabeth Coombs, whom I respect but who was the public servant who had the unfortunate task of minding the shop. On 1 December 2003 Robyn Henderson went on holidays and Dr Coombs was appointed to mind the shop until Ms Henderson returned in January. But then Robyn Henderson was sacked and Dr Elizabeth Coombs had to stay on. In April the whole department was abolished and Dr Coombs suddenly found herself in charge of organising a restructure for 1 July, and she ultimately stayed well into following financial year.

During the mini-budget hearings I asked whether transitional costs had been accommodated. While the department did not have very much information it assured the committee that all transition costs would be accommodated in the \$3.1 million budget. One can imagine my surprise in May 2006 when I saw in schedule 2 to this bill that more than \$1 million was required to fund transition costs for the Office for Women. No explanation was given as to the type of costs incurred. This agency, which has only 14 people now, could not possibly need more desks or computers. If anything, the office could generate income by sub-leasing and getting rid of expensive office equipment that was purchased only the previous financial year. It is baffling to understand how an agency of 14 people could have dropped \$1 million, which could be a record on a per-staff basis, but no information about that is in this bill.

With those comments, I continue to express my concern about the future of the Office for Women and the downgrading of relevant policy by this Government. I do not believe this Government is any shape or position to provide a meaningful contribution for women. In effect, the Office for Women has been brushed under the carpet and out of the way. It has not been regarded by this Government as an opportunity to enhance the status of women but as a problem which generates questions it does not wish to answer, and causes it to be probed in a way it does not wish to be probed. As a result, the office has been put in a broom cupboard with the door slammed shut. The funds from all of those good programs, grants and services that suffered the horrendous cuts inflicted by the 6 April 2004 mini-budget have gone into paying for transition costs for bureaucrats to massively restructure and then two years later to massively restructure offices again.

This appropriation bill is one of the most disgraceful pieces of legislation that has come before this Parliament. For the Treasurer to say in his second reading speech that the Government is being transparent, and then to produce a bill like this without any explanation at all is an absolute disgrace and an insult to honourable members, to the public and to taxpayers, who meet those costs. It is a particular insult to all of the victims of the April 2004 mini-budget—the mini-budget that I suppose we had to have. That budget showed how funding for services can be tuned and burnt into waste and mismanagement, even beyond the low expectations of the Opposition. But with this legislation I congratulate the Treasurer on exceeding our expectations yet again.

The Hon. MICHAEL COSTA (Treasurer, Minister for Infrastructure, and Minister for the Hunter) [4.05 p.m.], in reply: I wish I could thank honourable members for their contributions, but most were based on ignorance and naivety. Every year the Parliament appropriates an amount to the Treasurer's Advance to provide for contingencies within the State budget. In addition, under section 22 (1) of the Public Finance and Audit Act the Governor can approve draw-downs from the Consolidated Fund for the requirements of government. There is nothing extraordinary about what has occurred: it is a normal practice of government. It has occurred under all governments, including at the Federal level, to which I will refer in a moment. A number of comments were made about the lack of transparency in the appropriation—

The Hon. John Ryan: It was information by your government.

The Hon. MICHAEL COSTA: I let you speak in peace, so let me speak in peace. The Federal Government has also obviously used appropriation bills when it requires additional funding for programs.

The Hon. Greg Pearce: Point of order: I ask you to remind the Treasurer that he is speaking in reply. So far as I am aware no honourable member referred in the debate to the Federal appropriation bill. He should not raise a new matter in reply that should have been dealt with in his second reading speech. He does not reply to his own second reading speech.

The Hon. MICHAEL COSTA: To the point of order: I listened intently to the Opposition when it spoke about the wonderful contrast between the Federal budget and the finances of New South Wales—which we dispute of course. On that basis it really is a spurious point of order to draw attention to what is purported to be a lack of relevance when the honourable member has not heard what I have got to say. In relation to appropriation bills, the Opposition spoke about a lack of transparency and it is appropriate that I respond. The obvious way to do that is to compare the current practice in other jurisdictions in this nation.

The Hon. Greg Pearce: Further to the point of order: The Minister has just condemned himself. He said that in his speech in reply he wanted to compare this appropriation bill with appropriation bills in other places. He needs to be brought back to order. It is unfortunate that he does not understand the rules of this House and is so rattled by his failure to have any success in Canberra to deal with or get rid of the GST. He should be asked to speak in reply.

The Hon. MICHAEL COSTA: Further to the point of order: I know the Opposition is severely embarrassed by the way the Federal Government has dealt with New South Wales, but my points relate to appropriate practice in terms of appropriations bills and transparency, not in to the Federal budget. It is common within any jurisdiction when that is discussed to look at other comparable institutions, or even a superior institution such as the Federal Parliament, about how it handles these matters, and that is all I seek to do. This is a spurious point of order to stop me continuing with my speech in reply. I ask you, Madam Deputy-President, to call the member to order and allow me to continue my reply.

The Hon. Greg Pearce: Further to the point of order: I do not want to labour the point, but the Treasurer once again has condemned himself by indicating that he wants to introduce new material to refute points made in the debate. He is not entitled to introduce new material when speaking in reply to the second reading debate.

The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner): Order! Members or Ministers should not introduce new material when speaking in reply. The Treasurer will address matters that were raised in the debate.

The Hon. MICHAEL COSTA: Transparency was raised in the context of this debate. I will argue that the Government has been extremely transparent and has set new standards in transparency, particularly when compared with jurisdictions such as the Federal jurisdiction. Since the bill was introduced last week the member for Southern Highlands has, in the other place and publicly, made a number of comments that highlight her inexperience in dealing with the financial matters of the State.

The Hon. Greg Pearce: Point of order: I hesitate to raise another point of order, but, as my colleague the Hon. John Ryan said, the honourable member for Southern Highlands is not a member of this House and did not take part in this debate. The Treasurer was confused in question time when he suggested the Coalition was the Government. We certainly would like that to be so, and are working very hard towards that. However, when speaking in reply to the debate the Treasurer is not entitled to respond to what was said by the honourable member for Southern Highlands, who is not a member of this House and who did not take part in the debate.

The Hon. Christine Robertson: To the point of order: During the debate several Opposition members clearly discussed issues raised in the debate in the lower House. The Minister for Education and Training in the other place put this item on the agenda by the comments she made in that place. Madam Deputy-President, I therefore ask you to rule against the point of order.

The Hon. MICHAEL COSTA: To the point of order: A number of members who spoke in the debate in this House referred to comments that were made by the member for Southern Highlands both in the other place and publicly when discussing the matter before this House. I was referring to those comments. Spurious points of order are being taken because Opposition members have been stung by criticism of the Federal Government's budget and its lack of financial management. I do not want to take up the time of the Chamber; I want to complete my remarks in reply to the debate. But if Opposition members take spurious points of order because they do not want to hear my reply, this debate could continue for some time.

The Hon. John Ryan: To the point of order: The point of order taken by my colleague related to a line of argument that the Treasurer was clearly commencing, in which he was about to criticise comments made by the honourable member for Southern Highlands in another place during debate there. The Treasurer had the opportunity, when he delivered his second reading speech, to counter the comments of the honourable member for Southern Highlands if they were of concern to him, because they would have been current at that time. But the Treasurer is now speaking in reply, and therefore is permitted to reply only to issues raised in the debate.

Simply because members in this place referred to the honourable member for Southern Highlands in some way does not entitle the Treasurer to make everything the honourable member said anywhere a live issue here, because in doing so he would not be speaking in reply. One imagines that the Treasurer would have to justify his line of argument by saying, for instance, "Some matter which was raised by a member referring to something said by the member for Southern Highlands needs to be responded to."

The Treasurer is not entitled to continue to sledge the honourable member for Southern Highlands on anything she might have said at any time, simply because he is speaking in reply to this debate. Unfortunately, the Treasurer does not acknowledge that he is speaking in reply to the debate. It seems that the comments he wants to make may have been a justifiable part of this debate. Had the Treasurer included those comments in his second reading speech, that probably would have been appropriate, but it is not appropriate for him to make them now.

The Hon. Catherine Cusack: To the point of order: In response to the points raised by the Hon. Christine Robertson, I admit it is true that in this place members have referred to the speech delivered by the Minister for Education and Training. But that is because that was the second reading speech for the bill in the other place. Because the bill is being rushed through this House, Opposition members did not have the *Hansard* record of the second reading speech delivered by the Treasurer in this place. Therefore members have had to rely on the second reading speech delivered in the other place. I do not think that it is in any way analogous to a debate that is occurring in this Chamber.

The second reading speech in the other place was delivered from an officially prepared document, which may be identical to the speech incorporated in this House. Because of the speed with which the bill is being pushed through, any comments about the speech delivered by Minister Tebbutt clearly relate to the speech which was not delivered in this Chamber but which was incorporated in *Hansard*. That was the only documentary record on which members could rely for the Government's explanation of the reasons for this bill.

The Hon. Christine Robertson: Further to the point of order: I was not in the Chamber during the relevant portion of the debate—I heard it in my room—and therefore I was unable to take a point of order at that time regarding the unfortunate comments made against the Hon. Carmel Tebbutt. I did not mention that fact when I took the point of order. Treasurer Costa is discussing issues raised in the debate in this House and matters referred to by Coalition members who spoke in this debate.

The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner): Order! I ask the Treasurer in replying to the debate to confine his remarks to matters raised in the debate in this House.

The Hon. MICHAEL COSTA: On a number of occasions during the debate in this House, which took place subsequent to the incorporation of the second reading speech, Opposition members made comments about transparency, the state of the finances of New South Wales, and the haste associated with the passage of this bill, to which they attributed sinister motives. They also tried to establish connections between this appropriation

variations bill and the finances of New South Wales, which will be revealed at the time of the budget. Claims have been made that this additional expenditure is caused by a blow-out in the State's budget. Those claims are simply not true. Some \$1.2 billion of this expenditure relates to superannuation.

The Hon. Greg Pearce: It is only \$1 billion, isn't it?

The Hon. MICHAEL COSTA: I am talking about claims that were made.

The Hon. Greg Pearce: I am trying to help you.

The Hon. MICHAEL COSTA: No, you are not trying to help me; you are trying to interrupt me. I said that claims were made that \$1.2 billion of this expenditure in the appropriation variations bill related to a blow-out in the budget surplus. Those claims are not true. The amount of \$1 billion is allocated for superannuation.

The Hon. Greg Pearce: So I was right.

The Hon. MICHAEL COSTA: I was silent when Opposition members spoke a lot of drivel, and I would appreciate a similar courtesy for my reply. It seems those members want to adhere to their drivel and are interrupting me because they are embarrassed by criticism today of the Federal budget. An appropriation is sought to transfer \$1 billion from the New South Wales Government's Self Insurance Corporation to the General Government Liability Management Fund. Under Treasury policy, the New South Wales Government Self Insurance Corporation is required to hold financial assets at least equivalent to 110 per cent of outstanding insurance claims liabilities. This ensures that all insurance claims will be paid as they fall due. That is the reason for the appropriation—not the claim that was made about \$1.2 billion being related to an alleged blow-out in the budget.

The Self Insurance Corporation is holding financial assets of approximately \$1 billion above those required by Treasury policy. The surplus has arisen through good management, lower public sector workers compensation and public liability claims, the positive impact of the Government's tort law reform legislation, and better than expected investment returns. The \$1 billion will be paid to the trustee of the Public Sector Superannuation Fund to invest in the long-term growth of assets. I hope that clears up once and for all the purpose of the allocation of that amount of money. None of the \$1 billion will be used to fund operating expenses. The transfers will improve future budget results and reduce net financial liabilities. Anyone with a basic grasp of the State's finances might be expected to understand this and to applaud the Government for paying off unfunded superannuation liabilities. She also criticised the Government for investing in—

The Hon. Catherine Cusack: Who is "she"?

The Hon. MICHAEL COSTA: The Opposition has criticised the Government, and the member for—

The Hon. Catherine Cusack: Point of order: I ask the Treasurer to nominate who in the Opposition he is replying to, because I have no recollection of the comment that he made. If he is speaking in reply he should at least be able to tell us to whom he is replying.

The Hon. Greg Pearce: To the point of order: I am pleased to see that you have resumed the chair, Madam President, to assist the Treasurer. It is very embarrassing for him. He should know now not to refer to a member as "she", but to refer to a member only by his or her correct name and title.

The PRESIDENT: Order! I have ruled on numerous occasions that members may make general comments during debate on legislation—a much different approach from that taken in question time. The standing order that relates to questions is very concise and requires that answers to questions be relevant.

The Hon. MICHAEL COSTA: The Opposition has criticised the Government for its investment in World Youth Day 2008.

The Hon. Patricia Forsythe: No. That's wrong.

The Hon. MICHAEL COSTA: Yes, you did.

The Hon. Greg Pearce: Who said that? Come on, who said that?

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

The Hon. MICHAEL COSTA: The Department of State and Regional Development estimates the economic benefit to New South Wales from the event would range between \$65 million and \$112 million, yet members of the Opposition are criticising appropriations for these amounts of money. I suggest that honourable members who have not read *Hansard* ought to read it because then they would know who said that.

The Hon. Patricia Forsythe: You did not put the money aside!

The Hon. MICHAEL COSTA: Well, the honourable member has just confirmed it. It is interesting that an honourable member opposite has just confirmed that the Opposition is critical of the Government's appropriation for an event that will have an economic benefit for the State. As I have said, government appropriations are common practice and they occur in all jurisdictions. They have occurred in the past and they will occur in the future. We seek appropriations for events such as World Youth Day that have a positive economic spin-off for the State, yet we are subject to criticism from the Opposition for doing so.

A number of disgraceful comments were made about this issue by the principal spokesperson for the Opposition—that is, the honourable member for Southern Highlands—in an attempt to play politics with what ought to be an event that is supported by all of the community. World Youth Day, one of the items contained in the Appropriation (Budget Variations) Bill, will generate a positive benefit to the State. That is why the Government has sought this appropriation. The Opposition made a number of comments in relation to matters that are outside the scope of the bill. The Appropriation (Budget Variations) Bill may present the formal process of our appropriating funds, but many of the issues linked to these appropriations have been debated publicly in this Chamber, and more broadly publicly either through Government announcements or Opposition concerns expressed at question time.

There is nothing unusual in what we see here. This is the normal business of government and it is surprising that the principal spokesperson for the Opposition on financial matters, who was a senior adviser to Mr Greiner when he was Treasurer, does not understand this procedure. It demonstrates her inexperience. On a number of occasions during the course of this debate honourable members have attempted to draw a link between these appropriations and the state of New South Wales finances. They have implied that somehow these appropriations are unusual and something that has arisen because of the difficulties in which we find ourselves largely as a result of the mismanagement of the Federal economy by the Federal Treasurer. That mismanagement was exemplified in the recent interest rate rises, which have put further downward pressure on revenues in New South Wales and which we will have to adjust in our budget.

Clearly, we are seeing a contrast, which a number of honourable members noted. I think they did it in a boastful way because they did not understand the Federal budget or Federal finances; they sought to draw a negative association between the State's finances and Federal finances. As I said, they were digging themselves a fairly large hole. If one looks at the recent Federal appropriations bill, particularly in regard to transparency—as I said, I am referring to this as a general observation because those opposite argue that New South Wales has lower standards of transparency than other jurisdictions—one can only reasonably infer that if they were going to make the argument they would at least have had a look at how the Federal Government has dealt with its supplementary appropriations. I am glad the Opposition has made that observation because it gives me the opportunity to point out that over the past five years the Federal Government has introduced 12 appropriation bills for additional spending over and above its normal budget appropriation—12 additional appropriation bills!

The Hon. Greg Pearce: For things like the war!

The Hon. MICHAEL COSTA: I will come to what it was for in a moment. If honourable members accept the proposition that somehow supplementary appropriation is linked to budget mismanagement, as those opposite have argued, they must draw the logical conclusion that the Federal Government has mismanaged the Federal economy because it has introduced 12 appropriation bills. Let us deal with the argument that supplementary appropriation bill equals mismanagement of the economy—your argument! Your Federal Government introduced 12 supplementary appropriation bills. In the past five years those appropriation bills have totalled \$9.8 billion. Talk about mismanagement and a linkage between supplementary appropriation and mismanagement! Honourable members opposite have dug a large hole. It is obvious that it was a political point-scoring exercise that makes no sense. They are embarrassed by the revelation that they have introduced 12 appropriation bills, to the tune of \$9.8 billion.

The Hon. Catherine Cusack: That is normal; this is not normal.

The Hon. MICHAEL COSTA: So now it is normal! Five or 10 minutes ago when the honourable member was talking it was not normal. An appropriation bill was a sign of mismanagement, an inability to budget forward. Clearly, when she pointed out that the Federal Government has had \$9.8 billion worth of appropriations and 12 appropriation bills, it is normal.

[*Interruption*]

What a foolish argument from someone who ought to know better. She ought to know better. The contrast is one that we on this side of the House should be proud of—and we are! Wait until honourable members see the transparency in those appropriation bills. This Government's appropriation bill goes through every item and lists what it is. In fact, we on this side of the Chamber had the opportunity to go through the bill and attempt to ridicule ourselves for providing additional funding for a range of services and activities which are appropriate and which have been publicly debated. I could go through the Federal appropriation bill, but it is too embarrassing, even for me, to use it as a political point. Let me pick a department. Here is one that is interesting—Employment and Workplace Relations portfolio, Australian Industrial Registry. What does the bill state? The registry was allocated \$2.1 million for an "equity injection". What the hell is an equity injection?

Let me take another portfolio, such as Finance and Administration. This is a Federal bill. One would have thought that the Department of Finance and Administration ought to know standard practice for appropriation bills, but what does it state? "Equity injection"! Nothing else is stated and there is no detail. It states only "equity injection", and the examples of that go on and on. Every single appropriation has that item. What about the Attorney General's portfolio? I like this example because it relates to police. This is a good one. For the Australian Federal Police, there is an appropriation of \$37 million, not the \$10 million referred to by the Opposition, and what is the explanation? "Equity injection"! There is no explanation and no detail. Nobody knows what it is about, and the statement to explain it simply is "equity injection". I am happy to be held to a standard that the Coalition contends is a high standard.

The Hon. Catherine Cusack: This is two financial years ago. This is two years old.

The Hon. MICHAEL COSTA: On the basis of the Federal Government's appropriation bills, the Hon. Catherine Cusack has failed, and she is severely embarrassed. The list goes on.

[*Interruption*]

Let me take the year that the Hon. Catherine Cusack is yelling about. In 2004-05, there was a \$2.4 million supplementation of the Federal budget, and no detail was provided. In 2005-06, another \$2.6 million was allocated. Clearly the Opposition's argument just does not stand up. It is a nonsense argument. The Opposition has used the opportunity of this debate to give the Government a general spray on a range of issues but, as usual, members opposite have not done their homework. The Federal Government's 12 appropriation bills ask for an additional \$9 billion, but the Federal Government has provided absolutely no detail in the bills.

In contrast to that, the New South Wales Government's appropriation bill provides the most detailed explanation of what the appropriations are for and sets a standard that I wish the Commonwealth Government would adopt. I pay income tax, and as a taxpayer I am disgusted that the Commonwealth Government appropriates money all over the place with the explanation "equity injection"—whatever that means. It is a disgrace. The Hon. Catherine Cusack should take a look at it instead of hiding her face in shame. She should have a look at the Federal Government's appropriation bill and compare it with the New South Wales Appropriation (Budget Variations) Bill.

The Hon. Catherine Cusack: I wish the Treasurer would speak about his bill.

The Hon. MICHAEL COSTA: I invite the Hon. Catherine Cusack to choose a department, and I will pick a department.

The Hon. Catherine Cusack: I am not in the Federal Parliament. I am in the State Parliament.

The Hon. MICHAEL COSTA: I challenge her. She should pick a department, and I will pick one.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I remind members on the Opposition benches that interjections are disorderly at all times and they should cease interjecting.

The Hon. MICHAEL COSTA: I challenge the Opposition to choose any Federal department, choose a counterpart department at the State level, compare the Federal Government's appropriation bill with the New South Wales Appropriation (Budget Variations) Bill and note the detail. The New South Wales Government's appropriation bills provide more detail than do the Federal Government's. The New South Wales Government provides substantive detail that is linked to Government decisions. There is nothing untoward about an appropriation bill. It is a normal part of government. As I said, the Commonwealth Government has had 12 appropriation bills for an additional \$9 billion in revenue.

I liked the references by the Opposition to the budget position in New South Wales. I found that quite extraordinary because although it is true that New South Wales is likely to have a budget deficit this year, as reported in the half yearly statement, the reasons for that are pretty clear.

The Hon. Greg Pearce: Your incompetence and mismanagement. They are very clear.

The Hon. MICHAEL COSTA: The Hon. Greg Pearce has interjected that the State Government is incompetent and that I am incompetent. I make the point that the State Government—

The Hon. Greg Pearce: Do you accept the point? Do you accept the judgment?

The Hon. MICHAEL COSTA: I do not accept any point. I am making a point about the comments made by the Hon. Greg Pearce. This Government inherited an absolute mess from the Coalition's Greiner-Fahey Government.

[*Interruption*]

I am glad that the Hon. Greg Pearce has interjected for the second time.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I call the Hon. Greg Pearce to order for the second time.

The Hon. MICHAEL COSTA: I am glad that the Hon. Greg Pearce has made the interjection because I remind him that in 1991, which was three or four years into the term of the previous Coalition Government, the State's credit rating was put at risk by the financial mismanagement of the Coalition. Some of the members of the Coalition were policy advisers at that time, including the Hon. Catherine Cusack and the Hon. Patricia Forsythe. Not only was the State's credit rating put on credit watch because of the Coalition's financial incompetence, but also the Coalition had a \$1 billion deficit in that year that led to that credit watch. Yet the Hon. Catherine Cusack sits in this Chamber with her arms folded. Her body language shows her displeasure at hearing the truth and hearing the facts, but I remind her that she raised all these issues. I was happy to have a normal debate on the appropriation bill, but members opposite decided that they would use this debate as a political point-scoring exercise. They became upset when I decided to respond.

[*Interruption*]

If the Hon. John Ryan withdraws in *Hansard* everything that has been said by the Coalition, I will withdraw my comments. It is as simple as that. The Coalition will not do that, and I will respond to what has been said. The Coalition claimed that our appropriation supplementation is due to financial mismanagement. I have pointed out that every government has supplementation. The Federal Coalition Government—the Government that is becoming famous as a tax and waste Government after last night's budget—is even more prone to taking action to supplement its Treasury position. Appropriation bills are a normal part of government, but to have this Coalition, which almost lost the State of New South Wales its triple-A credit rating, drawing a connection between the appropriation bill and the financial state of New South Wales is really galling. It should be remembered that the previous Coalition Government had a \$1 billion deficit, and that was not the only \$1 billion deficit the Coalition had in government. The Coalition had a number of deficits.

The Hon. Catherine Cusack: We had to get the triple-A rating back.

The Hon. MICHAEL COSTA: No. The Coalition had to come to the Carr-Egan Labor team and sit down with the ratings agencies to talk them through it. We had to support the Coalition to get back the triple-A

rating because the Coalition had so mismanaged the economy that we were facing a downgrading of this State's triple-A credit rating. That is the reality. That is what occurred. I know it is really embarrassing for the Hon. Catherine Cusack to hear that, but they are the facts. Let me examine the budget results of that period. I have used the figures I am about to cite on previous occasions because they are illustrative of the Coalition's incompetence.

[Interruption]

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I remind members that interjections are disorderly.

The Hon. MICHAEL COSTA: The Coalition had a budget deficit of \$515 million in 1989-90, a budget deficit of \$1.2 billion in 1991, a budget deficit of \$1.6 billion in 1991-92, a budget deficit of \$1.2 billion in 1992-93, and when the Coalition started to get its act together, it managed to pull in the budget deficit to \$907 million in 1993-94. In the Coalition's last budget, it slightly improved on its position because finally it had got the message, after the ratings agencies put it on credit watch, and delivered a budget deficit of \$611 million. That is the Coalition's record and it is embarrassing for members opposite. But they should not have tried to turn a normal appropriation process, based on all the conventions that have been around for a number of years, into a political debate.

The Hon. Greg Pearce: What conventions?

The Hon. MICHAEL COSTA: The conventions are that governments seek a budgetary supplement and provide information. It is done at the Federal level, it is done in other States, it is done here and it has been done in the past. They are the conventions. The Coalition tried to turn this debate into a political stage on which to score silly political points, and that has all backfired. This has happened at a time when the Commonwealth Government is partly responsible for the problems faced by New South Wales because of the manner in which the Commonwealth Government has been dealing with State-Federal fiscal arrangements.

Part of the problem in this State is that the Commonwealth has taken a decision to tighten its purse strings in relation to New South Wales. I think that what the Federal Government has done is completely inappropriate. I cite the scandalous decision in relation to the Pacific Highway. I point out to the Hon. Melinda Pavey, although it is embarrassing for her, that I asked the Federal Treasurer for \$800 million for the Pacific Highway. He said, "Look, I will give you \$800 million because I am trying to squirrel away a lot of money that I have taken from taxpayers in the nation and it is getting very embarrassing. I will stick some in the futures fund, I will give you a bit in tax cuts—it's all your money anyhow—and I will give you some money for infrastructure."

The Federal Government's infrastructure budget is appalling. In the next State budget, the New South Wales Government will spend on infrastructure four times the amount that the Federal Government will spend. What is going on federally is a scandal. I argued very strongly, but I accept the proposition of the Hon. Greg Pearce that I failed to get funding allocated for the Pacific Highway. The Federal Treasurer wanted to spend money on the Hume Highway because, as I said during question time, it probably is the closest highway to his home. It is a scandalous situation.

The Hon. Catherine Cusack: You are a disgrace.

The Hon. MICHAEL COSTA: The Hon. Catherine Cusack is a disgrace. She came into the Chamber and made allegation after allegation about members on the Government side, about compassion and about the consequences of policy decisions when we are facing fiscal difficulties. The honourable member opposite, Ned Flanders—the Hon. John Ryan—made a number of comments about the compassion of my honourable colleague the Minister for Disability Services, who argued with great pathos, and a number of other people. She tried to imply that members on this side of the Chamber are heartless.

The Hon. John Ryan: You are.

The Hon. MICHAEL COSTA: I acknowledge that the Hon. John Ryan said that we are heartless.

The Hon. John Ryan: Anyone who would cut \$2,000—

The Hon. MICHAEL COSTA: Anyone who proposes to take a thousand Department of Community Services workers out of the system has no compassion, and that is what the Opposition proposed. It is embarrassing to listen to the rabble opposite talking about economics. They are embarrassed by what has occurred. However, this bill is transparent. It reflects the normal course of Government activity. The bill has been explained and the Opposition should not play politics with it, but that is what they have chosen to do. The coming March 2007 election might have something to do with that. This has backfired on the Opposition, because the Commonwealth provides less information.

The Hon. Catherine Cusack: It has backfired on me, because I have to listen to this speech. That is very painful.

The Hon. MICHAEL COSTA: That is right, the Hon. Catherine Cusack will listen to it for as long as I am here. I will point out when she is talking drivel, as she did in her contribution. There have been 12 appropriation bills. I compared the detail in ours to that of the Commonwealth, and the Commonwealth was shown to be lacking. I have compared the appropriation process with the budget process, and it has nothing to do with mismanagement of State finances. I have pointed out that the former Coalition Government had more budget deficits than the Labor Government has ever had. In addition, the Opposition has put the State on credit watch. It was so profligate that it put the State on credit watch. That is its financial record.

The Opposition asked the Government to help bail it out, and we agreed because we believe that the State's interests come first. But the Opposition members should not use a normal appropriation bill to try to paint the State's finances as being something other than they are, which the Hon. Catherine Cusack has done. The Opposition should not use a normal appropriation bill to try to score points against the Government about its lack of compassion: if the Opposition had compassion it would take some of the Federal surplus and give it to New South Wales so that we could spend it on services.

I remind the House of what has been allocated for Health. The growth rate is 7.5 per cent, but the Federal Government has allocated only 5 per cent. The Opposition should not come into this place and talk about a lack of compassion. This is a normal bill that reflects the normal workings of government. Its provisions have been explained, and I have responded to the nonsense from the Opposition. I will finish my contribution and commend the bill to the House, and allow the Opposition to lick their wounds.

Motion agreed to.

Bill read a second time and passed through remaining stages.

ASSENT TO BILLS

Assent to the following bills reported:

Motor Accidents (Lifetime Care and Support) Bill
Motor Accidents Compensation Amendment Bill

EDUCATION LEGISLATION AMENDMENT (STAFF) BILL

INDEPENDENT COMMISSION AGAINST CORRUPTION AMENDMENT (OPERATIONS REVIEW COMMITTEE) BILL

Bills received.

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

Motion by the Hon. Michael Costa 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.

WORKERS COMPENSATION LEGISLATION AMENDMENT BILL**Second Reading**

The Hon. MICHAEL COSTA (Treasurer, Minister for Infrastructure, and Minister for the Hunter) [4.46 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

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

Leave granted.

The *Workers Compensation Legislation Amendment Bill 2006* continues the Government's program of reform to our workers compensation system.

The Government has been progressively amending workers compensation, with the most recent legislation in 2005 effecting reforms to dispute resolution procedures, clarifying outworker and labour hire deemed worker provisions and making the premium compliance and audit system fairer.

This program of reform is bringing dividends for employees and employers in NSW. We have been able to boost benefits to the most seriously injured; slash the deficit back; and cut premiums. The overall aim of these reforms has been to build a scheme that is fair, affordable and efficient.

In line with these aims the Government has been reforming how employer's premiums are calculated. Our aim is to ensure that those who incur costs against the scheme pay their fair share.

The Bill before the House proposes amendments in two areas to meet this objective. First, the Bill introduces a new scheme for grouping employers for premium assessment purposes.

However, let me make it clear that this is about making the workers compensation scheme fairer and it is not about increasing premiums on employers. It is intended that the impact of these grouping changes will be revenue neutral to the workers compensation fund.

Secondly, the Bill requires New South Wales' employers who become Comcare licensees to contribute to the WorkCover Authority Fund. This will ensure that they meet their proportionate obligations to fund WorkCover's responsibilities under the *Occupational Health and Safety Act 2000*.

A further minor amendment is made to the way the excess amount payable by an employer is set. The amendment will permit the excess to be prescribed in the insurance premiums order rather than in the regulations.

In September 2002, two special advisers appointed by the Government, Ms Penny Le Couteur and Dr Neil Warren, issued a report on the degree of employer compliance with workers compensation and payroll tax obligations.

The consultants noted that by splitting companies into separate and distinct entities to reduce wages in each company, employers are legally able to be insulated from their claims experience.

The report stated that grouping of related employers is essential for economic neutrality in the treatment of different businesses under the payroll tax and workers compensation legislation.

These consultants recommended that companies having common ownership and control should be grouped together for workers compensation purposes to reduce compliance costs and to prevent artificial splitting of activities and unfair reduction in premiums.

The Government's initial response has been to generally accept this recommendation. Schedule 2 to the *Workers Compensation Legislation Amendment Act 2002* included provisions for grouping of employers for workers compensation purposes.

A group of employers in those provisions is defined with reference to a group as defined in the *Taxation Administration Act 1996* for the purposes of payroll tax.

However, the provisions proposed in 2002 were not commenced because discussions with employers prior to implementation revealed some possible problems in requiring grouped employers to be insured under a single policy. In addition, there were possible adverse impacts on some charities and on small businesses that were exempt from payroll tax.

The issue of grouping of related businesses for workers compensation purposes was then considered in the *NSW Workers Compensation Premium Review Discussion Paper* issued in March 2005. As a result of extensive consultation arising from that Discussion Paper, the Bill now introduces a revised proposal for grouping employers. One of the guiding objectives of the Review was to ensure that implementation of the reforms does not change the level of premium collected for the scheme.

The essential features of the revised proposal are:

- For workers compensation purposes, group employers are limited to groups with combined wages exceeding \$600,000 per annum, the same threshold as specified for payroll tax purposes;

- Charities and other not-for-profit organisations may apply for an exemption from grouping if their businesses are not in direct competition with profit-oriented businesses; and
- Group employers will no longer be required to have a common policy but their separate workers compensation policies must have a common renewal date and be with the same Scheme Agent.
- Groups will include related trusts, partnership and corporations. If a group employer fails to pay an amount due under the Act, for example for premium or for penalty premium, all members of a group will be jointly and severally liable for those payments.

The Bill enables an employer to apply to WorkCover for an exclusion determination under proposed section 175E on the grounds set out in proposed section 175F.

WorkCover will be developing and publishing guidance material to assist employers who may be entitled to seek an exclusion and as to the criteria that will be taken into account in considering applications.

Where an employer is a charity or not-for-profit organisation that conducts a business that is not in direct competition with a commercial operation, the charity will be able to apply to WorkCover for a determination that it is not a member of a group in respect of the totality of its business covered by a particular workers compensation insurance policy.

Any increase in premium that may accrue to a group as a whole resulting from the grouping provisions will be limited in the Insurance Premiums Order.

In the first year the increase will not exceed 25 per cent of the premiums that would have been payable by an employer had the employer not been grouped.

This cap will extend to 50 per cent in the second year and 75 per cent in the third year. However, this cap does not apply to increases in premium that result from other factors such as increased wages or increased claims experience.

The Insurance Premiums Order to be made for 2006-2007 will also impose a common sizing factor based on the combined basic tariff premium of all group members.

The Order will stipulate that caps on the maximum experience-adjusted premiums for small and medium employers will apply to group members collectively rather than to individual group members.

In a further step to prevent avoidance, the Insurance Premiums Order to apply from 30 June 2006 will permit the costs of claims for group members cancelling or not renewing policies to be proportionally allocated between remaining group members for experience premium calculation purposes.

The Bill also contains additional provisions to permit WorkCover to inspect records and contains an amendment that permits disclosure by WorkCover of information to the Chief Commissioner of State Revenue. This matches a power in the *Taxation Administration Act 1996* for the Chief Commissioner of State Revenue to disclose information to WorkCover.

I would like to use an example to illustrate how a company may benefit from these improved grouping arrangements. A lift services group of three companies is engaged in manufacturing and servicing lifts.

When their policies renew on 31 December 2006 the overall group premium will be \$452,000 as opposed to a total premium of \$473,000 if the grouping calculation had not been used.

This group benefits from grouping because they have a better than average claims experience relative to the industry they operate in. The group's premium calculation now uses a common S factor, which provides a greater discount to their group tariff premium. This example demonstrates the importance of introducing these new grouping provisions.

The revised proposals contained in this Bill appropriately address the concerns raised about the practical implementation of grouping of employers for workers compensation purposes. The Bill also repeals the redundant uncommenced provisions inserted by the 2002 amendments.

Item [2] in Schedule 1 to the Bill proposes a minor amendment to section 160 of the *Workers Compensation Act 1987*.

Currently, section 160 states that the excess amount to be paid by an employer in respect of each weekly compensation claim is \$500 or such other amount as may be prescribed in the regulations.

The change proposed is to enable the excess amount to be set in the Insurance Premiums Order instead of in the regulations. As the Insurance Premiums Order is reviewed each year, this will provide a simpler and more direct means of setting the amount of excess.

I turn now to the provisions in Schedule 2 to the Bill concerning contributions by Comcare licensees.

Schedule 2 to the Bill requires New South Wales employers who become Comcare licensees to make a contribution to the WorkCover Authority Fund. This ensures that they meet their proportionate obligations to fund WorkCover's responsibilities under NSW occupational health and safety laws.

The WorkCover Authority Fund is supported by the collection of a contribution from licensed insurers and self-insurers. The contribution is calculated under section 39 of the *Workplace Injury Management and Workers Compensation Act 1998*. WorkCover expends approximately 60 per cent of the Fund each year on the enforcement of the NSW occupational health and safety laws.

Most employers pay the contribution indirectly. A licensed insurer pays a contribution to the Fund based on the total premium income received by the licensed insurer. Employers who are self-insurers pay their contributions based on the deemed premium income that they receive.

Deemed premium income is the amount of premium that a self-insurer would have been liable to pay a licensed insurer if the self-insurer had held a policy of insurance issued by a licensed insurer.

Part 8 of the *Safety, Rehabilitation and Compensation Act 1988* permits employers who carry on business in competition with current or former Commonwealth authorities to seek the issue of a licence from Comcare, the Commonwealth workers compensation scheme.

Several employers have been declared eligible by Comcare to obtain such licences, and at least one large employer has been issued with a Comcare licence. An employer that becomes a Comcare licensee ceases to be required to hold a policy of workers compensation insurance, or to be a self-insurer, under the *Workers Compensation Act 1987*.

However, employers who become Comcare licensees remain subject to *New South Wales Occupational Health and Safety Act 2000*. Under the *Workplace Injury Management and Workers Compensation Act 1998* in its current form, there is no mechanism to collect a contribution from such employers, to assist in the funding of the enforcement of NSW occupational health and safety laws.

Honourable Members will appreciate that this situation is inequitable, as it requires remaining employers in the New South Wales workers compensation system to bear the occupational health and safety enforcement costs for these Comcare licensees.

The Commonwealth Parliament is currently considering whether to exempt Comcare licensees from State and Territory occupational health and safety laws. The Bill contains a provision that clarifies that if a Comcare licensee becomes subject to Commonwealth occupational health and safety legislation, then that Comcare licensee will no longer be liable to pay the contribution to WorkCover.

The new contribution for Comcare licensees who remain subject to the New South Wales occupational health and safety laws is a fair, reasonable and transparent method of ensuring that all employers who remain subject to NSW occupational health and safety laws pay their fair share.

The Bill continues the program of reform and improvement to the workers compensation scheme, in the interests of workers, employers and the broader community.

I commend the Bill to the House.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I remind the Hon. Catherine Cusack that she is already on two calls to order and that she should adhere to the standing orders.

The Hon. GREG PEARCE [4.47 p.m.]: The Opposition will not oppose the workers Compensation Legislation Amendment Bill, although there were some concerns about the prior attempt of the Government to introduce the bill. Currently, some New South Wales employers split their companies into a number of entities to avoid the claims experience of one section of their business impacting on another section. I am sure that is limited only to a few rogue businesses and it does not adversely reflect on groups and companies that often have a large number of different corporate entities reflecting their business arrangement.

On a number of occasions the Government has attempted to introduce legislation to prevent the abuse that might occur when a business uses a number of entities to avoid a claims experience. The bill is similar to payroll tax legislation, which covers similar problems that occasionally occur in that area. The bill attempts to force businesses to join their separate entities for taxation and workers compensation requirements. The Government had a prior attempt at dealing with what it saw as a problem. In September 2002 two specialist advisers were appointed by the Government to look at that problem. The advisers issued a report on the degree of employer compliance with workers compensation and payroll tax obligations. The consultants recommended that companies having common ownership and control should be grouped together for workers compensation purposes to reduce compliance costs, and to prevent artificial splitting activities and unfair reductions in premiums.

The legislation was subsequently passed and schedule 2 to the Workers Compensation Legislation Amendment Act included provisions relating to the grouping of employers for workers compensation purposes. However, the provisions proposed in 2002 were not commenced, primarily because the Government did not undertake sufficient consultation with business and employers before it introduced the legislation. When the relevant discussions occurred following the bill's introduction, various problems came to light with requiring grouped employers to be insured under a single policy. That is certainly the case when businesses legitimately use a number of legal entities for various reasons when setting up their operations. In addition, the 2002 amendments carried possible adverse implications for some charities and small businesses that were exempt from payroll tax.

The grouping of related businesses for workers compensation purposes was then considered in the New South Wales Workers Compensation Premium Review discussion paper issued in March last year. As a result of extensive consultation arising from that discussion paper, the bill introduces a revised proposal for grouping employers. I think the experience with the 2002 bill is a reflection of the Government's actions in workplace relations. The Government has introduced several pieces of extreme industrial relations legislation that have had adverse consequences. In the run-up to the next State election—and, more importantly, in the context of the decline in competitiveness, growth and employment in New South Wales—last week the Minister for Industrial Relations introduced a discussion paper outlining a raft of extreme and unworkable provisions in the current legislation. We will address those issues when the relevant legislation is introduced.

It is about time the Government was forced, kicking and screaming, to amend its industrial relations legislation to ensure that it pursues the objectives of creating jobs and encouraging workplace relations that are in the best interests of workers, employers and the economy. The Government must promote growth and encourage employment in New South Wales to make us once again the engine room of the Australian economy. The Opposition does not oppose the legislation.

Debate adjourned on motion by the Hon. Peter Primrose.

EDUCATION LEGISLATION AMENDMENT (STAFF) BILL

Second Reading

The Hon. ERIC ROOZENDAAL (Minister for Roads) [4.53 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

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

Leave granted.

The Iemma Government is committed to ensuring that the New South Wales education system continues to meet the challenges of the twenty-first century and is delivering world-class results.

The Department of Education and Training and TAFE provide schooling and vocational education to over a million students in NSW.

And as we all know, as parents, as citizens, as teachers and as a Parliament, a quality education gives young Australians the best possible start to life and work.

Research demonstrates the critical role of quality teachers in education outcomes.

The NSW Government is;

- spending \$10.2 billion on education and training,
- supporting quality teaching through the creation of the Institute of Teachers,
- spending \$650 million over 4 years on class size reduction and
- investing \$144 million over four years in teacher professional development.

As the major NSW Government agencies entrusted with the provision of school and vocational education to over a million students, the Department and TAFE have a responsibility to appropriately deal with the small number of teachers and other employees whose work performance and conduct is of an unsatisfactory standard.

And I stress a small number.

The overwhelming majority of teachers and other staff working in Government schools and TAFE are doing a fine job—they are dedicated and committed—and will not be affected by the proposed changes.

Accordingly, the Government will amend the *Teaching Services Act 1980*, the *Technical and Further Education Commission Act 1990* and the *Education (School Administrative and Support Staff) Act 1987* to create a new framework for dealing with the conduct and performance of persons employed under the Acts and to dismiss and otherwise deal with employees who become prohibited persons.

The bill will:

- Provide a faster and less complex process for dealing with poor performance and misconduct;
- Ensure the immediate and automatic dismissal of teachers or other employees convicted of sex offences;
- Provide better monitoring of teachers and support staff who will have their work regularly reviewed; and

- Ensure the rights of children are given paramount importance by departmental decision-makers, courts and tribunals when any action is taken against departmental employees.

New Disciplinary Procedures

The new streamlined disciplinary processes that the Government is introducing reflect those already applying to the bulk of public servants, including those employed under the Public Sector Employment and Management Act 2002.

Just as the disciplinary provisions of the *Public Sector Employment and Management Act 2002* apply only to permanent staff and not to temporary staff, so too, the provisions of the new legislation apply only to permanent staff of the department and TAFE.

The general principle is that it is only permanent staff for whom formal disciplinary action is necessary, as temporary staff have no on-going tenure.

Temporary staff are afforded separate procedurally fair processes for dealing with conduct and performance issues.

In order to clarify the expectations for all concerned, the objectives of disciplinary action are to be introduced into legislation.

These objectives are:

- to maintain appropriate standards of conduct and work-related performance for permanent employees,
- to protect and enhance the integrity and reputation of the department or TAFE, and
- to ensure that the public interest is protected.

Underpinning these objectives will be discipline procedures which cut red tape while continuing to ensure that employees receive procedural fairness, in circumstances other than convictions for serious sex offences.

Under the previous discipline systems a "mini trial" was held before a departmental official, known as a prescribed officer, during which witnesses, including children, could be cross-examined by barristers or even the employee themselves.

Child witnesses were guaranteed none of the protections provided to them during criminal trials when being a witness at one of these "mini-trials".

In the case of performance matters, this "mini-trial" occurred after a Teacher Improvement Program had been in place where the school principal worked closely with the teacher, identifying areas of weakness and setting the standards of performance required.

If the principal considered the teacher was not able to achieve the standard required, then it was referred after an independent procedural review, to the prescribed officer for the teacher to face a "charge" of inefficiency. The matters, including the principal's concerns about the teacher's performance were then dealt with all over again.

In the case of conduct matters, the "mini-trial" occurred after an exhaustive investigation had already been conducted into the allegations, including interviewing and taking of statements from witnesses.

If at the conclusion of the investigation, it was considered that misconduct had occurred, then the matter was referred to the prescribed officer to oversee the "mini-trial".

All the issues that had already been the subject of the original investigation are dealt with all over again.

The outcome was a protracted, bureaucratic and legalistic disciplinary process which often got bogged down in the technical legal aspects of matters rather than focusing on the substantive merits of the case. This process had a detrimental impact on children and other witnesses, the workplace and the employee that was being dealt with.

It was not unusual for disciplinary matters surrounding teacher performance to take up to 15 months from beginning to end, or for teacher conduct matters to take up to 2 years.

The "mini-trial" is abolished as part of the Government's reforms and replaced with new streamlined system based on that introduced for public servants under the Public Sector Employment and Management Act 2002.

The bill customises that system to take account of special responsibilities placed on teachers and support staff who work in schools.

As occurred with the Public Sector Employment and Management Act, detailed procedures for the new streamlined disciplinary systems will be contained in guidelines.

The bill provides that the guidelines will be drafted to provide procedural fairness to employees.

The bill simplifies the current arrangement in which there are twelve different categories of breaches of discipline by introducing a general category of disciplinary action called "misconduct". This avoids technical arguments about whether the issues in question have been properly characterised as fitting within one of the specific categories.

The bill also ensures remedial action can be taken as an alternative to disciplinary action. Remedial action includes formal and informal counselling, staff development and training.

This acknowledges that a punitive approach is not always the best way to ensure improved performance in future from an employee whose conduct was not as serious as to warrant dismissal.

So, for example, if a teacher displayed some form of immature behaviour of a less serious kind, the current system allows the penalties of warning, reprimand, fine or demotion.

Under the system introduced by the bill, informal counselling and skill development would be possible. That is not to say that the counselling and skill development are always appropriate—but this bill gives the Department a greater range of options in managing employees.

The current disciplinary system treats unsatisfactory performance in the same way as a misconduct matter. This bill separates the two and ensures that staff performance is reviewed on a periodic basis as determined by the Director-General of the Department or the Managing Director of TAFE.

Undertaking periodic reviews of performance is consistent with existing practice, but the bill will provide a legislative underpinning.

There is already a requirement of an annual review of the performance of school teachers under the Teacher Assessment Review Schedule (TARS). The annual review requirement already exists for school principals.

An employee whose performance is of concern will be informed of those concerns and will be required to undertake a performance improvement program designed to meet the identified concerns. If at the end of the program the employee's performance is still not satisfactory, the Director-General or the Managing Director will be empowered to take appropriate action, including dismissal or demotion.

Staff will maintain their existing right of appeal to either the Industrial Relations Commission or the Government and Related Employees Tribunal against disciplinary action taken against them.

Existing powers to suspend staff have been strengthened. The Acts will expressly provide that the Director-General and Managing Director be able to suspend, or continue a suspension of, an employee charged with a serious criminal offence until a decision is made about what, if any, disciplinary action should be taken against the employee.

It is important to be clear that this circumstance is different to that applying where a person has been convicted of a serious sexual offence or other relevant serious offence.

As I will detail shortly, when they are convicted they will not longer be employed. When they are merely charged, however, the Act currently allows a suspension from duty, with or without pay.

It is important to understand that there will be some occasions where despite a criminal charge being dismissed, there may be reasons to continue a suspension until departmental disciplinary procedures are finalised.

Acquittals may occur for a range of reasons—often reasons related to the protections surrounding criminal trials. However, the Department has different considerations when deciding whether a person is suitable to be employed with children.

It may be that different evidence is available, that charges can be proven to a different standard of proof; or that admissions made or evidence heard during a criminal trial which, though may not lead to a conviction in relation to the criminal offence, raise concerns as to fitness to teach. In such cases it is important that there is a power to continue the suspension.

The Acts will now also provide that the salary of such employees may, at the discretion of the Director-General and Managing Director, be withheld from an employee who is suspended and who is found guilty of an offence but no conviction is recorded against him or her.

Sex Offences

As agencies responsible for the care and welfare of students the Department of Education and Training and TAFE have an obligation to protect the children and young people in their care from sexual, physical and emotional abuse and neglect and from other inappropriate conduct.

The Government has already introduced a comprehensive legislative scheme which deals with an evaluation of the fitness of people who work, or seek to work, in child-related employment and are convicted of a serious sex offence or otherwise become a prohibited person.

This bill builds upon this legislative scheme by recognising the special trust placed by the community in school teachers and others working in schools, and in TAFE teachers who work with children or young people. This bill recognises that confidence in public education is eroded when a staff member who works with children is convicted of a serious sex offence.

Criminal trials have a range of special safeguards to ensure the unjustly accused are not convicted. These include:

- The presumption of innocence
- the requirement for the prosecution to prove the case beyond reasonable doubt, not just on the balance of probabilities
- where the offence is an indictable one, the verdict being decided by a jury of one's peers
- the right to legal representation
- the right of an accused person to silence
- the scrupulous adherence to the rules of evidence

Under this bill such educational professionals who work with children and who are convicted of a serious sex offence or otherwise become a prohibited person will be dismissed from employment effective from the date of their conviction. That is, where such a person is convicted of a crime by a criminal court, there is no place for them in public education.

The dismissal will occur as a direct consequence of the criminal conviction, not as a result of departmental disciplinary action.

Appeals

Any person dismissed as a consequence of such a conviction has the right to appeal. If their conviction is overturned they will be entitled to automatic reinstatement or re-employment to a similar position.

If they subsequently receive an order from a court or relevant tribunal that their conviction no longer makes them a prohibited person for the purposes of the Act, then they will be automatically reinstated provided they have obtained the clearance within 12 months of their employment being terminated.

Paramount Consideration

For the first time express provision is made in these Acts for paramount consideration to be given to the importance of protecting children when dealing with staff disciplinary matters. Departmental decision makers will need to give paramount consideration to the need to protect children when deciding how to deal with teachers and other staff who are subject to disciplinary action for misconduct or unsatisfactory performance.

Courts reviewing disciplinary outcomes for TAFE teachers, school teachers and other people who work in schools will also be required to give paramount consideration to the need to protect children when dealing with an appeal or other court action taken by an employee against any decision made by the department or TAFE in the disciplinary context.

In conclusion, the Government is committed to ensuring that the community receive quality services from government education providers and that students will be able to learn in a safe environment. The changes introduced by the bill will assist the Government to achieve these outcomes.

These reforms are commonsense, practical improvements that will strengthen the public education system in New South Wales.

I commend the bill to the House.

The Hon. ROBYN PARKER [4.53 p.m.]: I lead for the Liberal-Nationals Coalition on the Education Legislation Amendment (Staff) Bill. I state at the outset that the Coalition agrees with the Government's intention to strengthen legislation dealing with poor performance or misconduct on the part of teachers. The interests of students must be paramount at all times. That should be our main concern. However, the Coalition has grave reservations about the details of the bill's implementation. We are concerned about the procedures outlined in the bill—a number of which I will mention later in my speech.

We must remember at all times that the bill's provisions will be applied against a very limited number of teaching or non-teaching staff employed in the education field. I am sure all honourable members will agree that teachers in public and private schools across New South Wales do an outstanding job. There are more than 50,000 teachers in public schools in New South Wales but in this bill we are legislating for only a limited number. I know that many honourable members in this House and in the other place have a teaching background. I also trained as a teacher and have taught at TAFE institutions. Every time I visit a school I meet admirable and inspirational teachers.

This week I visited Hamilton South Public School, where I witnessed some inspirational teaching, particularly in the intellectually mild [IM] classes. Teachers were doing wonderful things and inspiring their students. I think most of us can remember a teacher who inspired us in some way—perhaps they taught us to think for ourselves, for example. Those teachers are imprinted on our brain. However, when teachers perform poorly it is not in the interests of students or a good education system, and the damaging effect on students can be long lasting. On my more recent visits to schools I have discovered example after example of teachers performing in poor working environments. This Government is letting good teachers down.

The Department of Education and Training and TAFE provide schooling and vocational education to more than one million students in New South Wales. The role of teachers in public and private schools is to give children the best possible start in life. Every bit of research points to the fact that quality teaching produces outstanding student outcomes. In her second reading speech in the other place the Minister for Education and Training noted:

The Iemma Government is committed to ensuring that the New South Wales education system continues to meet the challenges of the twenty-first century and is delivering world-class results.

Sorry, but I do not think that assessment is accurate. Our teachers are working in very difficult conditions. Classrooms are often overcrowded and the curriculum is jam-packed. Last year the Auditor-General noted that

the school maintenance backlog totalled \$116 million. I have mentioned my visit to Hamilton South Public School. The school has been campaigning for the construction of a security fence around its perimeter to shield students from busy roads and to deter vandals.

The police visited the school at the time I was there because vandals had been seen there the weekend before. The school spent a considerable amount of time campaigning the State Government to try to get funding for a fence and for other maintenance issues at the school. Fortunately, the Federal Government has come to the rescue of Hamilton South Public School and will provide funds to build the security fence.

During the recent inquiry into the recruitment and training of teachers conducted by the Legislative Council Standing Committee on Social Issues, of which I am Deputy-Chair, a critical issue raised time and again was the poor infrastructure and environment provided for our teachers—the leaking classrooms, the presence of rats in some classrooms, and the peeling and flaking walls. The Minister claims that our schools are getting world-class results. That is true, but it should be noted that the teacher to student ratio in New South Wales is the worst of any State in Australia. Time and again the Opposition raises concerns about our schools, and in the past 12 months has campaigned to try to stop the department cutting Priority Action School Program funding. The Opposition has raised issues over IM classes and has constantly campaigned on behalf of teachers and parents of children attending New South Wales schools.

The bill will affect a minority of teachers and staff. The New South Wales Opposition supports teachers and commends them for the role they play in our schools. The majority of teachers are dedicated and committed and are doing a fantastic job. These changes will not affect those teachers. Numerous unsuccessful attempts have been made to set up an internal framework to deal with poor performing teachers and those convicted of criminal offences out of teaching. In the past that was a very lengthy process—it often took up to two or three years according to information provided by the Teachers Federation. This bill seeks to streamline the process. It proposes substantial amendments to three Acts: the Teaching Services Act 1980, the Technical and Further Education Commission Act 1990 and the Education (School Administrative and Support Staff) Act 1987.

The bill seeks to create a new framework for dealing with the conduct and performance of persons employed under those Acts and to dismiss and otherwise deal with employees who become prohibited persons. The Government claims that this bill will provide a faster and less complex process for dealing with poor performance and misconduct. I am certain that all honourable members support the immediate and automatic dismissal of teachers and other employees convicted of sex offences. It is further claimed that this bill will provide better monitoring of teachers and support staff, whose work will be regularly reviewed. It will ensure that at all times the interests of children are paramount when departmental decision-makers take action against departmental employees.

Recommendation after recommendation of the social issues committee's report into the recruitment and training of teachers referred to the provision of more support and mentoring programs for teachers. It is important to provide our teachers, particularly new graduate teachers, with that level of support. We must give them the best opportunity to do the job that they have been trained to do. I note that this bill only relates to permanent staff. In his second reading speech the Minister said that the Government was introducing disciplinary processes that would apply to the bulk of public servants, including those employed under the Public Sector Employment and Management Act. In fact, that is not the case. The bill was hastily introduced and those sorts of provisions were included in the original document. There was a lack of consultation with the Teachers Federation and other stakeholders.

The bill was amended in the Legislative Assembly. That is typical of this Government. It introduces legislation and throws it before Parliament without looking at the detail. The Legislation Review Committee of which I am a member was scathing in its comments about the absence in the bill of procedural fairness provision relating to misconduct and the right to be heard—fundamental procedural fairness rights that may be found in the Public Sector Employment and Management Act but which clearly were not initially included in this bill. And the Government has the temerity to lecture us continually on industrial relations issues! We have even taken the unusual step of establishing a Legislative Council committee to inquire into industrial relations. Given all that, one would think that the Government would place huge importance on ensuring that procedural fairness provisions were enshrined in the bill. One would think that the Government's overall requirement was to establish a legislative framework.

In its original form the bill gave teachers fewer rights than those enjoyed by other public sector employees. When examining this bill the Legislation Review Committee commented the lack of procedural

fairness and the fact that personal rights and liberties were being trespassed upon. With regard to other legislation the committee makes recommendations in relation to retrospectivity and the like. However, this bill failed almost every test. The committee noted that the bill provided only a limited right to a hearing; that the director general could make procedural guidelines that did not provide a right to be heard; that there was no express requirement that the guidelines be consistent with procedural fairness; and that there were insufficient definitions for such terms as "misconduct" that would support and give procedural fairness.

The committee reported its recommendations to the Government. The Government responded and ultimately amended the bill. It is a shame that this had to happen before the Government took action. It is a shame that the Government did not incorporate provisions earlier to protect the personal rights and liberties of people. Overall we want to maintain good standards and good conduct in work-related performances, and we certainly want to protect the children. We have a duty of care in that regard in our schools and TAFE colleges. But we also want to ensure that those who are working in the system have their rights protected.

In letters dated 21 and 28 April the Teachers Federation wrote to the Government stating that the current delays were those of the department. It cited a number of cases, the validity of which I have not had time to test. The federation set out case studies in its correspondence to the department and commented on the time taken to investigate claims. The Teachers Federation said that the delays were caused by departmental delays more than anything else. The Opposition agrees with the intent of the bill, which is to provide a safe environment for children. However, at all times we should ensure such measures are not at the cost of a disservice to staff. It is a fine balancing act to ensure that everyone is treated fairly.

Another disappointment with the bill is that it links poor performance and misconduct. I am certain that all in this House would agree that misconduct relating to sexual assault, for example, should be dealt with swiftly so that the offending teacher or member of staff is removed and that we should err on the side of caution. The bill, in its original form, did not clearly define misconduct, according to the Legislation Review Committee. However, such issues are different from the issue of poor performance, which can be addressed. A process of mentoring, support and encouragement may result in a teacher having a considerable amount to offer to a school environment and to children in their care.

The bill, as amended, is positive in that it contains measures to protect children. Fortunately, amendments have been made to ensure procedural fairness for teachers. However, further amendment of the bill could be made. I have had only a short while to look at the amendments. The bill refers to the Commission for Children and Young People, which I believe no longer exists. I am not sure whether the amendments address that matter. The Minister might clarify the position for me in his reply, because in the list of amendments I have that anomaly does not seem to have been addressed.

To reiterate, it is important that the bill will speed up action to address misconduct by teachers and staff. The Government has commented on examples of mini-trials that occurred. A teacher who displayed inappropriate behaviour went through the long and difficult process of a mini-trial without protections to ensure the rights of the teacher. Children present at the trial and teachers did not have the right to legal representation or the right to silence—rights that we in this day and age consider to be appropriate for everyone. The bill strengthens existing powers to suspend staff and provides for a better process for dealing with staff charged with a criminal offence or with unsatisfactory performance while ensuring protections for children in care. Those matters can now be dealt with as quickly and appropriately as possible.

Having seen the amendments and noted that the Government finally has taken on board—though to an extent shutting the stable door after the horse has bolted—the suggestions made by the Legislation Review Committee and the Teachers Federation in support of teachers, I think it is fair to say we are now more comfortable with the amended bill. We support the very good teachers and non-teaching staff in the public education system. The amendments make the bill much tighter and better protect the personal rights and liabilities that Opposition members were so concerned about.

In conclusion, the Coalition supports the bill and particularly the amendments that secure the rights of teachers. We note again that our paramount concern should be for the children in care for whom the Department of Education and Training and TAFE are providing education. We recognise and support our very good teachers, and we continue the work being done to support those teachers. I encourage the Government to go further in its support of teachers by increasing mentoring, increasing opportunities for teachers to train, and generally providing a better physical environment for teachers. That includes fixing up the physical environments in which teachers must work, addressing student-teacher ratios, and improving the appalling

working conditions of some teachers. We should be mentoring teachers and encouraging people into the teaching work force, and encouraging those in the system to remain in it in order to retain teachers of quality. At the same time we must ensure that anyone who acts improperly is dealt with swiftly and appropriately. The Coalition supports the bill in its current form, which contains the amendment agreed to in the Legislative Assembly.

The Hon. PATRICIA FORSYTHE [5.17 p.m.]: I come to this debate as a person who in years past was one of the strongest advocates for an institute of teachers, because I was and am a strong advocate for ongoing professional development for all professions, not only for teachers. I looked at the bill in anticipation that it would be part of a continuum of the institute of teachers legislation introduced in the past couple of years. I understood that to be part of what the bill is about. I understood also that the bill was designed to make it easier to dismiss teachers who, as a consequence of child protection measures in this State in recent years, are deemed to be unfit to teach.

I acknowledge that I have not read the advice of the Legislation Review Committee on this bill. Therefore my first knowledge of the bill was gained only a few minutes ago, when the bill was circulated in this Chamber. So I will not claim to have consulted widely or to have had an opportunity to examine the bill in depth. However, a couple of things struck me when I opened the bill. The first was that the overview notes that this is "an Act to amend the Teaching Service Act and other existing legislation to provide for the termination of employment of educational staff". That makes it clear that the bill has application beyond teachers and principals. It notes that this debate is about "educational staff who are prohibited from being employed in child-related employment". The overview therefore goes to the issue of child protection, and no-one should quibble with that. No-one should quibble with that. I led for the Opposition when we dealt with that issue in this place. I knew there would be problems and I highlighted them, and I am going to say something about that in a moment. The fundamental principle is that certain people should not be engaged in child-related employment, and I endorse that principle. The overview states:

To make further provision with respect to the management of the conduct and performance of educational staff and for other purposes.

I am attracted to the term "other purposes". I am always concerned that something contained in the bill may slip by unless the House is diligent. I say that because I think a lot of people have come to this debate anticipating that we are talking about the performance of teachers and school principals per se. The bill is somewhat broader, and that fact should be placed on the record.

The objects of the bill in relation to the management of conduct and performance, as set out in part 4A are laudable. No-one could disagree with the objects of the bill as set out in proposed section 93A—to maintain appropriate standards of conduct and work-related performance for officers in the teaching service and to protect and enhance the integrity and reputation of the teaching service. I think that means, in the context in which it is put, that in the eyes of the Government there are certain people that the Government may deem as possibly impacting on the reputation of the service should they become teachers or remain employed as teachers. The third object in that section is related to ensuring that the public interest is protected. Well, of course, that is the role of government in all things—protecting the public interest.

That is the background, but this bill goes further and, as I said, although I have had only a brief opportunity to read the bill, I wanted my comments to go on the record. Some of the objectives of the bill may be absolutely in accordance with practice but I think we need to note some aspects. For example, and in particular, proposed section 92B provides that officers and temporary employees are not to undertake other paid work without permission. That relates not to casual employees but to officers and temporary employees. It provides officers and temporary employees are not to engage in any other paid employment unless they have sought the prior approval of the director general. It provides also that the director general may issue guidelines. Presumably the director general may choose not to issue guidelines, but to deal with applications on a case-by-case basis.

I put that on the record because it may come as a surprise to many people in the profession. But, as I said, it is not limited to teachers. Schedule 1 [14] makes provisions consequent on the enactment of the Education Legislation Amendment (Staff) Act. The provisions extend to school administrative and support staff, who may not undertake other paid work without permission. It may well be that it is normal practice in most businesses that people cannot have a second job without approval. At a time when we are focused on the employment of teachers I think it is worth noting that that has been included in this legislation. That would undoubtedly include staff seeking to serve as returning officers on election day—which seems to be a popular

job for teachers and school support staff—through to all sorts of things including, for example, playing in a band. The sky is the limit.

This Government, the ever-caring employer, is focused on the rights of individuals. I just think it should make sure that all staff are abundantly aware of that particular provision. The other issue I want to highlight relates to bankruptcy. Any permanent or temporary employee who becomes bankrupt has an obligation to notify the director general. Failure to do so would constitute misconduct and would be a reason or excuse for dismissal of the employee or the imposition of a fine, if the director general were of such a mind. Also included is anyone found guilty of a serious offence carrying a penalty greater than 12 months imprisonment.

I have not read the comments of the Legislation Review Committee but I listened to my colleague who talked about trampling on people's rights. As I said, I detected a couple of areas of concern in the bill. Its provisions extend beyond just teachers and school principals, and that should be noted on the record as part of the second reading debate.

The only other point I would make is that as shadow Minister for Education and Training I have met with a number of teachers who were the subject of often serious allegations. They spent a long time, often in regional offices, pending the resolution of allegations. The people I met assured me, of course, that they were not guilty of the various allegations made against them. That will be true in some cases but may not be true in every case, but I have absolutely no doubt that there are some very wise young people in our school system who see a way to retaliate against teachers who were perhaps harsh with them over their failure to complete homework or whatever, and who will make terrible allegations.

It is a vexed issue and not one that can be easily dealt with. I do not for one moment think it is something that anyone can take lightly. Not every teacher about whom an allegation is made is ever guilty of anything. It is an onerous responsibility, but a responsibility nevertheless on the Government to make certain that it acts to give support to teachers about whom wrongful allegations are made. Equally, it must support teachers about whom allegations are made so that they are not consigned to the dustbin. We must be responsible about the support we extend to people, but at the same time ensure that some people should never be employed with children. I do not think any member of this House would demur from that point of view. I made the observation that the bill is about far more than just the teaching service but, having been, and proudly so, a teacher in my first career, I wholeheartedly endorse anything it does to enhance the positive image of teachers as strong professionals.

Ms LEE RHIANNON [5.27 p.m.]: The Greens will oppose this bill, which has been rushed through without consultation with the New South Wales Teachers Federation. The bill displays a deeply troubling contempt for the public school teachers of New South Wales. Neither the Minister nor the department made any attempt to consult with the Teachers Federation prior to or during the drafting of the bill. Once the bill was drafted, the federation was given two days to review it—only two days! That is extraordinary, when the Government is trying to make out that the bill is about improving the quality of education in this State. Given that the bill makes it easier to sack teachers, one would expect the federation to have an opinion on it, and surely that opinion should be listened to.

The Teachers Federation represents the overwhelming majority of the teachers in our public schools—I believe around 80 per cent or 90 per cent—and it is fair to say that in most respects the New South Wales Teachers Federation and the public school teachers of New South Wales are one and the same. As such, to treat the Federation with contempt is to treat our public school teachers with contempt and, I would suggest, to treat public education with contempt.

This is another headline-grabbing bill. My three children went through the public school system. One meets lots of teachers and, clearly, some of them need more support, but the bill is about being punitive to teachers who may struggle rather than working with them so they can improve. The starting point is wrong and the end point is a disaster.

This behaviour from a Labor Government, and a left faction Minister, is what one would expect from a Liberal Government. And that is a relevant point, because this has to be seen in the context of the Commonwealth's WorkChoices legislation. In an environment of attacks on working people and working conditions, the New South Wales Government has joined in the conservative crusade by treating our public school teachers so shabbily.

As a result of this bill, whenever the next New South Wales Coalition government is elected teachers could be left exposed without decent internal rights to procedural fairness. Of course, teachers who are guilty of

misconduct or similarly inappropriate behaviour should be dismissed. We know there is provision for that already, and no-one says otherwise. But surely a Labor Government should be properly consulting and liaising with the relevant trade union, the Teachers Federation, about making it easier to dismiss teachers.

There is an important balance to be struck, and the rights of teachers to be treated fairly must be protected. I put that at the centre of what the Government claims is its key concern—the education that our young students are receiving. If teachers are being treated badly we will not get quality education. That point is being missed. The federation has a legitimate point of view and deserves to have it heard when education bills are developed. What is more, the federation is concerned that these changes may generate a climate of insecurity to silence teachers who speak out in support of public education.

Teachers should be free to speak out about underfunding or the incompetence of the department or the Minister without fear of reprisal. The fear is that this bill makes it easier for the department and the Minister to politically silence teachers. We know the Government will not acknowledge that, but we need to be clear that that will be one outcome when the bill is passed. This is no way to have a debate about important issues such as sacking teachers. The key voice of the public school teachers of New South Wales has been sidelined. They are central to this debate and to getting this legislation right.

The Greens certainly acknowledge that the Government has to get it right in terms of ensuring that teachers who work in public schools are able to do the job. It is by consulting with teachers, rather than by the harsh measures in this bill, that we can ensure they are given support. The Greens will not support the Government on education bills when it treats teachers with such contempt.

Ms SYLVIA HALE [5.31 p.m.]: Like my colleague Lee Rhiannon, Mr Ian Cohen and I will vote against this bill. I understand why the Teachers Federation is so angered by the lack of consultation about a bill that goes directly to the employment security of its members. It is rank hypocrisy for the State Labor Government to attack the Commonwealth for undermining job security through WorkChoices while at the same time undermining job security for teachers.

My strongest concern about the bill is that it says to our public school and TAFE teachers that they are not supported by the Government. The Government and the community are placing ever-increasing demands on teachers to address an expanding range of social issues that are emerging from our more fragmented society. Such diverse issues as AIDS, bike safety, sexuality, values, civics and parenting skills have been touted as issues for which the school, rather than the family, now bears primary responsibility.

At the same time teachers are under pressure to ensure both rigour and flexibility in the way the curriculum is delivered. Such ill-informed commentators as John Howard and Miranda Devine take it upon themselves to tell professionally trained teachers how they should do their job and deliver their lessons. At the same time that all these expectations have been increasing, the Government's commitment to professional development and support for teachers has been in decline. For example, the latest of the many recent restructures of the Department of Education and Training has resulted in a reduction in the number of positions that provide direct support to classroom teachers, thereby increasing teacher workloads and further eroding morale.

Rather than providing improved support to teachers who are facing increased expectations, the Government instead will make it easier to sack them. The Government is saying to teachers, "You will do more with less, and if you don't do it to our satisfaction, we will sack you." The bill tells teachers very clearly that they are not supported by the Government. The Greens are voting against the bill also because of what it does to the concept of procedural fairness. The procedures being removed by the bill were put in place to ensure that teachers accused of misconduct or unsatisfactory performance receive a fair and unbiased hearing before any action was taken. The bill seeks to water down those provisions. It will impose a more managerial model that makes the investigation of allegations less fair and less objective.

The current procedures allow any teacher who may be deemed a risk to students to be removed from the classroom pending investigation. The bill, therefore, is not required to protect students from inefficient or misbehaving teachers. So why has the Government introduced it? No wonder teachers are worried that the bill will be used to stop them speaking out publicly about problems in the State education system. What is more disturbing is that the bill removes even these watered-down protections from casual teachers. It is very disturbing that the Government allows so much teaching to be undertaken by teachers employed on a casual basis, particularly in the TAFE sector, where more than 50 per cent of teachers are casuals.

I cannot see any justification for non-permanent employees—dedicated teachers, many of whom have long years of teaching on a regular timetable—being denied procedural fairness, merely because their employer, the Government, chooses to keep them employed on a casual basis. Why should a casual teacher be less entitled to procedural fairness than a permanent teacher? I am genuinely surprised that a government that seeks to claim to be the friend of the worker in relation to WorkChoices has introduced such anti-worker legislation. The Government should withdraw the bill and commence negotiations with the teachers' union about these important industrial issues.

The Hon. JOHN RYAN [5.36 p.m.]: I participate in this debate because, interestingly enough, for nine years I was a schoolteacher at Sarah Redfern High School in Minto. Usually when I say that, people treat me with a great deal of sympathy as though I have been through some type of baptism of fire and trial. While I agree that Sarah Redfern High School was a wild place in which to teach, it is a great school and has done some terrific things. Many of its students have gone on to do particularly important things in the community—one of my former students is the Minister for Housing—so the school has done some pretty good things.

After I had finished being a teacher and became a parent, and the two roles did not necessarily coincide, I became not a provider of education but a consumer of education on behalf of my child. From that point on I looked at schools and schooling from a somewhat different perspective. School was not just a workplace but a place where my child would either sink or swim, win or lose, or prepare for life in the future. The idea that my child could in some way be saddled with a teacher who is inefficient was not just a trauma for my child but would have a catastrophic impact on my child's possible future at school.

While I am sympathetic to the speeches of two honourable members who preceded me in this debate and called for teachers to be dealt with fairly, I point out, based on my experience and first-hand knowledge of a school, that I would be surprised if a number of teachers I taught with could ever survive in private employment, if they behaved as they did at school. Yet those teachers had the phenomenal responsibility of teaching and looking after children. A balance has to be struck between respecting the professional integrity of teachers and understanding that while a teacher is in a classroom, the children in that classroom are quickly growing under their supervision, guidance and influence, and the child's future, whether the child will succeed in life or not, is quickly and simultaneously being determined.

We all have to understand that there needs to be a balance. Fifteen years ago when I was a teacher in a classroom the balance was wildly out of kilter. It was years before an inefficient teacher could be dealt with; the usual practice of dealing with inefficient teachers was that they were never dealt with, they were simply transferred.

Reverend the Hon. Fred Nile: To head office?

The Hon. JOHN RYAN: Reverend the Hon. Fred Nile interjected, "To head office?" In some respects I wish they were. However, the practice was that the teachers were transferred from school to school, taking with them a passage of disaster. I could tell when teachers were not coping, and the whole school knew when they were not coping, because the noise from their lessons wafted across the playground at various times. Kids were strolling in and out of their classrooms, throwing things, screaming and not learning. In many instances some of the kids who were not learning were those who really needed to learn because they were not the sorts of kids who would have that sort of resilience in the future.

I am not saying that I possess the knowledge to know that observations I made 15 years ago would necessarily be the same today. People have said to me that it is not that much different today; notwithstanding that there have been a few attempts to legislate to resolve the problem, it still has not worked. I have read the Minister's second reading speech that was incorporated in this House. I will read a couple of paragraphs to illustrate my concern. Referring to when a teacher is charged with a level of misconduct, the Minister said:

Under the previous discipline systems a mini-trial was held before a departmental official, known as a prescribed officer, during which witnesses, including children, could be cross-examined by barristers or even the employee themselves. Child witnesses were guaranteed none of the protections provided to them during criminal trials when being a witness at one of these mini-trials.

In the case of performance matters, this mini-trial occurred after a Teacher Improvement Program had been in place whereby the school principal worked closely with the teacher, identifying areas of weakness and setting the standards of performance required. If the principal considered the teacher was not able to achieve the standard required, it was referred after an independent procedural review to the prescribed officer for the teacher to face a charge of inefficiency. The matters, including the principal's concerns about the teacher's performance, were then dealt with all over again.

In the case of conduct matters, the mini-trial occurred after an exhaustive investigation had already been conducted into the allegations, including interviewing and taking of statements from witnesses. If at the conclusion of the investigation, it was considered that misconduct had occurred, the matter was referred to the prescribed officer to oversee the mini-trial. All the issues that had already been the subject of the original investigation were dealt with all over again. The outcome was a protracted, bureaucratic and legalistic disciplinary process, which often got bogged down in the technical legal aspects of matters rather than focusing on the substantive merits of the case.

To intercede, that means "Can this teacher cope with a class and teach?" The Minister continued:

This process had a detrimental impact on children and other witnesses—

and it is easy to understand why that would be the case—

the workplace and the employee that was being dealt with. It was not unusual for disciplinary matters surrounding teacher performance to take up to 15 months from beginning to end, or for teacher conduct matters to take up to two years.

A very common problem of teacher difficulty, and a problem I have observed, is that teachers are unable to express themselves in a clear and distinct fashion. It is not that the teacher cannot speak English or does not understand English; it is simply that the teacher might speak with such a heavy accent that the kids in the class do not understand what the teacher is saying. I do not intend to be racist or in any way pejorative about teachers, but it is a fact that one necessary skill for a teacher is to be able to clearly express yourself in the English language. I knew of teachers who could not do that. I do not understand how they passed muster to be employed in the first place, because a simple interview would have alerted the employer to the fact that that teacher would not make it in a classroom.

I observed that in a classroom, yet the teacher was passed from class to class, from school to school, round and round. I understand that this bureaucratic system will be implemented for a teacher who is simply incapable of speaking English clearly and distinctly—a necessary and important skill for a teacher to be employed in an Australian classroom. It is by no stretch of the imagination that if anyone wishes to suggest for a moment that I am casting aspersions on someone because of their different background, that is not the case. I think all of us would agree that that is an essential and important skill for a schoolteacher.

We know kids are cruel; we know they use any opportunity for a distraction. A teacher with a very distinct accent that makes him or her difficult to understand has an immediate problem. Of course, it is important to teach kids to have a level of tolerance, but those who have had anything to do with schools know that from time to time there have been teachers who have not mastered that skill. Similarly when dealing with kids, there are some teachers who cannot keep their cool in a crisis, which is an important personal skill that teachers need to have. Some teachers explode with rage in the classroom when there is a minor infraction of discipline and are not able to understand how to take kids simply and easily through the various steps needed to correct bad behaviour.

Some teachers simply do not prepare lessons. Some teachers have lengthy periods of absence. How can we offer students a course conducted by a teacher with an appalling record of attendance, regardless of the reason? Can we expect kids to sit in a classroom for 12 months and miss maths in year 8 or year 9, or even in primary school, because their teacher does not attend regularly? I know that some teachers do not attend because they are under stress or they are unprofessional. These matters are dealt with by employers, in the public service and elsewhere, in a manner that is a great deal less bureaucratic than what, for some reason or other, we saddle on teachers.

I understand the need to respect the Teachers Federation as a union to deal with, but for too long it has been a problem, rather than part of the solution, in resolving this issue. The way in which the union goes about this is that rather than come up with a solution it simply says that every solution presented to it has problems. Rather than attempting to understand, we all know that some teachers are not efficient, and are not competent. For the future of the young people who are in their hands, they have to go. I do not want to be in a position of sacking a teacher. I understand that for some people becoming a teacher has involved a course of education that has taken them some years, and additional instruction as well. To be removed from a classroom means that they will probably never be a teacher again. I understand that.

That probably does not mean that the person is unable to do any other job. It just seems to mean that the person has chosen the wrong job. The sad thing is that many teachers do not find out exactly what teaching is like until after they have completed their education. They probably are not given sufficient exposure to a classroom at an early stage, when they are making those sorts of decisions. I recall the manner in which I was

employed by the then Department of Education; it was a 10-minute interview conducted as part of my application for a teacher education scholarship. Little of the discussion during that interview had anything to do with whether I had a background or interest in the welfare of children.

As it happens, I did. I confess that when I became a high school teacher and arrived at Sarah Redfern High School at Minto, I was not properly and appropriately trained for some of the circumstances in which I found myself. I smile in amusement when I see that part of the disciplinary process involves a principal working closely with a teacher. I know that would never happen. A principal has a lot of things to do in a school, which is like running a multimillion-dollar business, supervising up to 100 teachers and dozens of cleaners and others. The chances of a principal working closely with a teacher are nil. Although they identify areas of weakness and set standards of required performance, we all know that that is unrealistic and will not happen with teachers who present a gross level of incompetence.

There has to be a balance between the need of kids and the important needs of teachers. I do not know whether the bill will achieve that, because I recall past governments introducing bills that they said would allow it to sack inefficient teachers quickly. Those bills were passed but their objectives obviously have not been achieved. By introducing this bill, the current Government recognises that the problem is yet to be solved.

I will refer now to a teacher who is convicted on sexual or criminal misconduct offences and is then summarily dismissed. I cannot understand how that is not utterly reasonable. Dismissal occurs on conviction. The teacher has been investigated, put before the court and given the presumption of innocence. The defence has been tested before a judge and jury and a conviction has occurred. As members of Parliament we know from reports how difficult it is to achieve a conviction for sexual assault or misconduct. Presuming a conviction occurred, which one of us would suggest that a person having gone through all of that ought to have the chance to be paid to stand in front of a class? The single exception would be if the person were able to have the matter overturned on appeal. The second reading speech of the Minister makes it clear that at that point the teacher could apply for re-employment.

We need a benchmark for public schools as against private schools. You do not find this nonsense in private schools. There is an amazing level of latitude extended to people to improve themselves. Teachers in private schools are appointed by the principal, someone who knows the person they are employing, who watches the teacher's performance and who is in a position to remove that person from the school if the performance is not up to scratch. They cannot pass their problems off to some other school in some other place. The provisions in the bill are pretty mild when benchmarked against the private education system. We have to face the fact that our public education system has to compete with the private system. Mums and dads are voting with their feet, partly because they are concerned that inefficient teachers are teaching their children important subjects, such as maths or English, and partly because they have no choice. When parents complain to a principal they are told that there is no other choice: their child has been placed in that class and it is their child's duty to put up with an inefficient teacher for six or 12 months.

A balance must be struck and I hope that this legislation strikes that balance. I am not close enough to the education system to be able to make that judgment, but I ask colleagues to understand that for a number of years I was a day-to-day teacher at the coalface in a difficult school in the western suburbs of Sydney. The things I saw happening right in front of me motivated me to get involved in public policy and get myself elected to Parliament.

On my reading of the bill, this appears to be a reasonably mild procedure. If honourable members are beginning to think that this is a problem they should look at the size of the bill—it is a small novel on its own. The fact that we would have a short novel on how to dismiss an inefficient teacher tells us that the system is going to be somewhat lengthy. We understand that there is a need for us, as the custodians of the public education system, to ensure that public education compares favourably with the private system. That is a fact whether one regards it as regrettable or not. Children in the public education system should have the same opportunity as children in the private system. We have to balance the needs of children against the requirements for fair procedures for teachers. We have to absolutely protect children from people who have been convicted of criminal offences and who represent a child protection risk.

As best the Opposition is able to judge it, the bill strikes that balance. No-one has put an argument to us in any cogent terms that it does not. If the Minister has not consulted with the Teachers Federation that is regrettable, but I have not received any representations from the federation to that effect. They know that I was a high school teacher and that I have some interest in education. They certainly have not communicated with me

that that has been a concern. Given that we hope that this bill strikes that balance, the Opposition supports the bill and wishes it well. If there are problems with the bill they will be sorted out, but if the track record is as so often occurs we will have replaced one group of bureaucratic procedures with another. For example teachers will still have the opportunity to appeal to the Government and Related Employees Appeal Tribunal. A lot of procedural fairness is built into this bill. It is important to strike that balance because we absolutely owe it to the young people who attend public schools to give them the best quality education possible. We ought to have the courage to pass legislation that ensures that grossly inefficient teachers do not remain in classrooms. There ought to be some manager who takes responsibility for stopping that disaster. Although procedural fairness is really important, and I do not understress that, it is important to have a balance between the needs of children and procedural fairness for employed teachers.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.55 p.m.]: I speak as a parent. My own schooling in Port Kembla primary school many years ago was not a greatly edifying process as I recall. I was sent to a private school, partly because my schooling at Port Kembla primary school was not regarded by my parents as a particularly successful process. Frankly I do not think it was. It was quite cumbersome and very much a matter of "We cannot put this child up or the other mothers will complain." Since becoming a parent I have found that if you are not happy with the teacher you tend to be told you are not parenting very well. I am not sure that is right either. It is a cause for concern when the hairdresser tells teachers that not much can be done about it. It is a cumbersome situation. If we are to call a spade a spade, the problem of discipline within this Parliament and the public service generally is very cumbersome. Job security is good and, because of procedural complications, people tend to be moved people around rather than dismissed.

As a parent trying to keep my child in the public school system to expose my child to the wider range of difficulties and differences within the community that might not be evident in the more sheltered environment of a private school, I am concerned that the standard of public education should be good. That means that teachers should be accountable and there should be a method to achieve that accountability. The current process is cumbersome. If this attempt to make it more realistic is successful it is a good thing. I note the words of the Hon. John Ryan, who has been a schoolteacher relatively recently—and certainly I have been a parent of a school-aged child recently—that some change is needed.

I note it was a left-wing Minister who spoke to me about this bill. I do not always agree with this Minister and we have certainly disagreed over the Adult Training, Learning and Support, and Post School Options programs for disabled people. Certainly at times the Minister is affected by budgetary constraints, but I do not believe that budget is driving this bill. I spoke to her about the fact that there is no input from parents and she replied that parents may be capricious. It is true that some parents with extremely badly behaved children wish to believe that their children's problems are everybody's fault but their own. I concede that a vocal group of such parents could adversely affect the career and image of a teacher, but for parents to have no scope for input to the school is unfortunate. Presumably if the parents are distressed enough they will continue to go to the principal and speak their piece regardless of the legislation. Perhaps this will be a spur to his or her action.

John Yu, a paediatrician at the Children's Hospital, has also pointed out to me that bullying in toilets and various other aspects of the school community have to be strongly dealt with. Teachers are often asked to perform duties outside the classroom that can be difficult to discharge. For example, a staff comprising mainly female teachers would find it difficult to deal with bullying that occurred predominantly in the boys' toilets. I believe the department should take account of the additional roles teachers play. I think schools should do more to address bullying, so teachers may have yet another duty. The bill does not address that issue, which I draw to the Minister's attention.

Under proposed section 92B, temporary employees must not undertake other paid work without permission. Many teachers are kept for far too long in temporary and casual positions. I know of teachers who should have been appointed permanently. They have done the same job very well for years, but they have not been made permanent presumably because the department does not want to pay them additional entitlements. I worry that teachers are being discriminated against. My son's school lost a very good casual teacher who accepted a permanent position elsewhere. He had taught music at the school for years but was not offered a permanent appointment. Given the quality of his work, there was no reason why he should not have been made permanent years before. It is unfortunate that the department mucks people around in this way.

Be that as it may, we need a less cumbersome process for dealing with teacher quality control. Dismissal is not always the answer. Some people simply find themselves in the wrong profession and are reluctant to move on. They should be encouraged to shape up or ship out. If the bill will achieve that aim, it

should be supported. I recognise that the New South Wales Teachers Federation is not entirely happy about the bill. However, the status quo is not satisfactory.

The Hon. MELINDA PAVEY [6.01 p.m.]: I lead for The Nationals on the Education Legislation Amendment (Staff) Bill. Public education has a huge impact in regional New South Wales, where many parents do not have the option of choosing between the public and private systems. However, as the Hon. John Ryan pointed out, many parents in New South Wales are voting with their feet and moving their children out of public education and into the private system. There is a general perception—whether real or imagined—that the private system offers a superior quality of education and educators. I am proudly and wholeheartedly the product of the public education systems of both Victoria and New South Wales. My school-age child, Jack, who is seven, also proudly attends the local public school. Like many country people, my family support, and are involved in, our school and our community.

Private education is an option where I live, but the public school has an excellent principal, who is a great leader, and a great school community. I have discussed with him the difficulties that he and his local colleagues face in attracting and employing appropriately qualified teachers. On that basis, and as a result of my personal experiences, I support the bill. The legislation will make it easier for the Department of Education and Training to demand accountability from teachers in the public education system in New South Wales. On the whole, teachers are fantastic and do a terrific job. But we all know of examples of people who should not teach. In the eyes of the community they have a job for life—regardless of whether they deserve it. When people believe they are employed for life they may not do their best. Thus good teachers who believe they have a job for life may not always perform to the best of their ability.

All our teachers must strive for excellence. As the Hon. John Ryan said, we owe it to the children in our public schools to keep teaching standards high. Those students must receive the best education available. That is particularly important in regional communities, where parents and children do not have education choices. We also owe it to our school leaders to empower them to act in the best interests of their students and their school when problems arise. The bill will provide for:

the termination of employment of educational staff who are prohibited from being employed in child-related employment and to make further provision—

this is the important point—

with respect to the management of the conduct and performance of educational staff ...

The community has been demanding such provisions for some time, and The Nationals support this attempt to maintain best practice teaching standards in our public education system.

Reverend the Hon. FRED NILE [6.05 p.m.]: The Christian Democratic Party is pleased to support the Education Legislation Amendment (Staff) Bill. The bill amends the Teaching Service Act 1980, the Technical and Further Education Commission Act 1990 and the Education (School Administrative and Support Staff) Act 1987 to create a new framework for dealing with the conduct and performance of persons employed under the Acts and to dismiss and otherwise deal with employees who become prohibited persons. Like other honourable members who have spoken in this debate, I spent my school years in the New South Wales public school system. Last weekend I had the pleasant experience of attending the 150th anniversary—or sesquicentenary—celebrations of Cleveland Street Intensive English High School. Over the years the school has been an infants school, a primary school, an intermediate high school and then a full high school. It is currently the main intensive English high school in Sydney.

The teachers of Cleveland Street High School organised some impressive activities for last weekend. On Friday there was an open assembly at the school involving current and former students, invited guests and departmental representatives. Between 300 and 400 people were in attendance. On Saturday there was a school open day and students provided musical entertainment. On Saturday night there was a special celebration dinner at the Canterbury racetrack function rooms for more than 300 guests. The guests of honour were Her Excellency the Governor of New South Wales, Professor Marie Bashir, and her husband, Sir Nicholas Shehadie, both of whom are former students of Cleveland Street High School.

As a former student, I was pleased to join them on that exciting night. Unfortunately I could not find anyone from my class—I graduated in 1949—but I found a graduate from 1948, and graduates from earlier years also attended the function. I do not know where my classmates are. I am most appreciative of the

education I received in the State system. Cleveland Street High School is the second oldest public school in New South Wales—which means that it is the second oldest in Australia. I think Fort Street High School is the oldest school in the State. Cleveland Street High School opened its doors in May 1856. I am pleased to support the bill because there have been problems with the administrative and disciplinary procedures for dealing with teachers who underperform. I am particularly concerned about teachers whose conduct is morally unsatisfactory.

We are all aware of some very sad cases in recent years of male teachers becoming infatuated with female teenage students, which have led to the student leaving school and cohabiting with that teacher. The teachers, whom I will not name, do not accept that they have abused their position of authority and power. In one case, after disciplinary procedures the teacher concerned successfully sued the department for mental stress and was awarded compensation. I believe he brought the stress upon himself. I hope this bill will bring about more rapid action by the department so that teachers who abuse the trust placed in them are forced to cease teaching as quickly as possible and so that they realise they are no longer suitable as teachers. The legislation provides that they will have no right to claim compensation from the department.

Teachers who have had problems in the workplace, some of which were sensitive but not moral misconduct, have approached me. The Government must take into account circumstances where a principal or others have evaluated a teacher's performance. I know of a case of conflict between a female principal, female senior teachers and a male teacher. The female teachers ganged up against the male teacher and made his working life very difficult. The female teachers reported that his performance was unsatisfactory. When I refer such matters to the Minister she goes back to the same people who, in my opinion, have harassed the male teacher and forced him out of his profession—it goes around in circles. On the basis of the information he is provided, the Minister finds justification for the decisions of the principal and others. I call it a personality clash; it has nothing to do with the ability or performance of the teacher but, rather, the inability of female teachers to work with a male teacher.

I am not sure what the solution is, but the education system needs male teachers to provide role models for male students. If such conflicts continue, males will be discouraged from becoming teachers or staying in the education system. At the moment the swing is from males in positions of authority in many schools to females in authority. In the past only male teachers were employed at Cleveland Street High School and many other high schools, and females had other roles. The Government must deal with such sensitive cases to ensure justice for male teachers. I note a number of very positive aspects of the legislation to which other speakers have referred.

The bill will provide a faster and less complex process for dealing with poor performance and misconduct. The Hon. John Ryan explained the mini-trial procedure, that the bill will eliminate and replace with a new streamlined system that is similar to that introduced for public servants under the Public Sector Employment and Management Act 2002, which I understand has worked satisfactorily. The bill also simplifies the current arrangement in which there are 12 different categories of breaches of discipline, and introduces a general category of disciplinary action called misconduct. This will avoid technical arguments about whether the issues in question have been properly characterised as fitting within one of the specific categories. The bill also ensures that remedial action can be taken as an alternative to disciplinary action. Remedial action includes formal and informal counselling, staff development and training.

In many cases a teacher's work performance—that is, their ability as a teacher—could be addressed by providing them with further training that would enable them to continue teaching rather than leaving the education system. The blame for their lack of professionalism not being of a high enough standard may then be put on their lack of preparation and training. Importantly, this bill deals with matters that arise from misconduct. The bill provides that an educational professional who works with children and who is convicted of a serious sex offence or otherwise becomes a prohibited person will be dismissed from employment effective from the date of his or her conviction. If such a person is convicted of a crime by a criminal court, there is no place for him or her in the public education system, as I am sure all honourable members would agree.

The dismissal will occur as a direct consequence of the criminal conviction, not as a result of departmental disciplinary action. Any person dismissed as a consequence of such a conviction has the right to appeal. The teacher is a role model in the classroom. We must ensure that his or her behaviour in relation to not only the curriculum but also general values is of a high standard. Students will move from the public system into the private system if higher moral values and standards of discipline, or even the enforcement of wearing school uniforms et cetera, which I believe create better behaved children, are sought. I remind the House that in the 1980s legislation, and even in the 1950s Sir Henry Parkes stressed that our system was to be secular and free. Unfortunately the word "secular" has led to a great deal of confusion and is now often misquoted by new

teachers who are told it means "atheistic" or "humanistic". In the 1880s education legislation and subsequent reform bills in the 1900s "secular" did not mean atheistic but non-denominational. In other words, the public school system could not be used by teachers, for example, to encourage students to become Catholics, Baptists or Anglican. The values had to be Judaeo-Christian—in other words, biblical values.

Secular meant non-denominational, not atheistic. I hope the department, and particularly the Minister, will ensure that the meaning of the word "secular" is understood by all teachers, because confusion is caused if new teachers think the school system has to be amoral—meaning it does not have values. It does have values. Those values, I believe, are best summed up in the term "Judaeo-Christian ethic". I am pleased that is officially upheld by the department, as it has been by previous education Ministers, and that that position will be maintained in the future. We support the bill.

The Hon. HENRY TSANG (Parliamentary Secretary) [6.20 p.m.], in reply: I thank all honourable members who have taken part in the debate. The bill amends the Teaching Service Act 1980, the Technical and Further Education Commission Act 1990 and the Education (School Administrative and Support Staff) Act 1987 to create a new framework for dealing with the conduct and performance of persons employed under the Acts and to dismiss and otherwise deal with employees who become prohibited persons. This new legislation will ensure the highest standards of conduct and performance among New South Wales teachers. Quality teaching and protecting children are two of the cornerstones of public education. Parents, the community and teachers themselves expect it. Our students deserve it. As the major New South Wales Government agencies entrusted with the provision of school and vocational education to over a million students, the Department of Education and Training and TAFE have a responsibility to appropriately deal with the small number of teachers and other employees whose work performance and conduct is of an unsatisfactory standard.

The bill will provide a simple, fast and fair process for dealing with performance and misconduct issues without diminishing employees rights to procedural fairness; enhance options for dealing with poor performance or allegations of misconduct by including the power to take remedial action; provide for the immediate dismissal of teachers or other employees working with children who become prohibited persons; ensure regular monitoring of the performance of teachers and other staff, who will have their work reviewed regularly by principals and managers; and ensure the rights of children are given paramount importance by department decision-makers, courts and tribunals when any action is taken against employees of the department. The overwhelming majority of teachers are of the highest quality and will not be affected by the bill. This legislation will make sure that the processes for dealing with the small minority of teachers who have performance or conduct issues is timely and fair.

I will now deal with several issues that have been raised by the Legislation Review Committee. The first, procedural fairness, has been dealt with in the Legislative Assembly. The bill clearly outlines in proposed section 930 that the guidelines shall provide that when an allegation of misconduct or poor performance is made an employee is advised in writing of the alleged misconduct, is advised that the allegation may lead to disciplinary action being taken, and is given an opportunity to respond both to the allegations themselves and in relation to the proposed actions to be taken. This is procedural fairness, to the same extent as provided in the Public Sector Employment and Management Act. Nevertheless, to make it particularly clear, the Government has amended the bill to clearly stipulate that the guidelines will allow for procedural fairness.

The second issue is also in relation to the procedural guidelines and their scrutiny by Parliament. It is presumed that this question largely arises out of concern as to whether the guidelines will be required to comply with the principles of procedural fairness. This issue has now been addressed by the amendment. It is also noted that the Director General of Education and Training has the same power as that granted to the Director of Public Employment to issue guidelines.

The third issue is in relation to suspension of officers from duty pending decisions in relation to misconduct or criminal conviction. The Government has decided to remove a defect in section 87 of the Teaching Service Act relating to the power to suspend. That defect is an inappropriate, and probably unintended, limitation in the power to suspend. It may be desirable and necessary having regard to the need to protect children, to continue a suspension in circumstances that the Act does not currently allow. The difficulty in section 87 (1) (b) of the Teaching Services Act lies in the wording "until the [criminal] charge has been dealt with". A criminal charge is dealt with when the relevant court imposes a sentence. This means the director general only has the power to suspend an officer who has been charged with a criminal offence. That power is exhausted immediately when the officer is convicted enabling the officer to return to duty until disciplinary action is completed. Further, if the director general finds out that an officer has been charged with a criminal

offence only after their conviction, there is no power to suspend at all. Proposed section 93L, as indicated in schedule 1 to the bill, provides that the officer remains suspended until such time as the director general decides to lift the suspension.

The power to withhold salary under section 49 (3) (b) of the Public Sector Employment and Management Act relies on the person being convicted of an offence. This has the consequence that a person who is found guilty of an offence but no conviction is recorded—that is, receives a section 10 under the Crimes (Sentencing Procedure) Act—will have his or her salary restored. The amended section is designed to give the director general discretion to forfeit to the Crown the salary of a person who is found guilty of a criminal offence. This is consistent with the impact of the "prohibited persons" provisions where the child protection legislation specifies that "conviction" includes being found guilty of the offence concerned. The director general would exercise this power consistently with the Premier's guidelines, which provide that the power to suspend without pay can be exercised only in exceptional circumstances. Those guidelines provide that agencies are to give priority to placing employees facing criminal charges or disciplinary proceedings on alternative duties.

The fourth issue is in relation to the definition of misconduct. Once again the definition closely follows the model established in the Public Sector Employment and Management Act and outlines several broad areas: a contravention of the Act or its regulations, engaging in conduct that justifies dismissal or demotion, taking detrimental action within the meaning of the Protected Disclosures Act against a person in reprisal for making a protected disclosure, and taking any action against a person that is in reprisal for making an internal disclosure.

The final issue is in relation to regulations made in respect of employees who are dismissed because they become prohibited persons who are then reinstated or re-employed. The regulation-making power enables a process to be established to meet the individual circumstances of the particular person who has been re-employed or reinstated as they arise. This would not delay their return to the work force or payroll and would be a process that would be undertaken under the supervision of Parliament.

I now turn my attention to comments made about consultation. The Government respects the role of the New South Wales Teachers Federation in representing teachers. However, we also understand that it is the Government's role to legislate in the best interests of public education. Clearly it is in the best interests of public education for the process to deal with the performance and misconduct of teachers and others who work in the education sector to be fair, timely and efficient. The Minister advised the Teachers Federation on 20 April of the Government's intention to vary the disciplinary provisions applying to teachers. On Wednesday 26 April a copy of the draft bill was provided to the New South Wales Teachers Federation and the Public Service Association. A copy of the bill was also provided to the Secondary Principals Council and the Primary Principals Association with an invitation to discuss any aspect.

The Federation of Parents and Citizens was briefed on the bill and provided with a copy on 1 May. The Public Service Association met the department on 28 April. The department provided a detailed document to the union comparing the provisions of the bill with the Education (School Administrative and Support Staff) Act 1987 and the Public Sector Employment and Management Act 2002. A similar comparative document for the Teaching Service Act 1980 was forwarded to the Teachers Federation on 1 May. The department met with the executive of the Primary Principals Association on 5 May and responded to a range of questions presented by the Secondary Principals Council. The department has also advised the unions that it intends to consult them in relation to the procedural guidelines that will implement the provisions of the bill. This further consultation process for the guideline will commence next week.

The bill provides for separate processes and separate guidelines for performance and misconduct in accordance with modern human resource practice and thinking. In response to concerns about employees needing to seek permission to work second jobs, this is a longstanding protection put in place to ensure that public sector employees do not have a conflict of interest in terms of secondary employment. It is not a new provision. This legislation will ensure the highest standards of conduct and performance among New South Wales teachers and school support staff. I commend the bill to the House.

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

The House divided.

Ayes, 23

Mr Brown	Mr Gay	Ms Robertson
Mr Catanzariti	Ms Griffin	Mr Ryan
Dr Chesterfield-Evans	Mr Lynn	Mr Tsang
Mr Clarke	Reverend Nile	Mr West
Ms Cusack	Mr Obeid	Dr Wong
Mr Donnelly	Mr Oldfield	<i>Tellers,</i>
Ms Fazio	Ms Parker	Mr Harwin
Mrs Forsythe	Mrs Pavey	Mr Primrose

Noes, 3

Mr Cohen
Tellers,
 Ms Hale
 Ms Rhiannon

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time and passed through remaining stages.

[The Deputy-President (The Hon. Penny Sharpe) left the chair at 6.41 p.m. The House resumed at 8.15 p.m.]

COURTS LEGISLATION AMENDMENT BILL

Second Reading

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [8.17 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

The bill provides for miscellaneous amendments to courts-related legislation and is part of the Attorney General's regular legislative review and monitoring program. Schedule 1 will amend the Civil Procedure Act 2005. Clause 18 of the Civil Procedure Regulation 2005 provided that proceedings in the Local and District courts were taken to have been dismissed if there was no progress after 12 months. Clause 18 has been repealed because it was being operated more widely than intended, and because it was unnecessary as the Local and District courts could use Uniform Civil Procedure Rule 12.9 to dismiss proceedings where there is no progress. As a small number of cases may have been affected by clause 18, the bill will insert a new part 3 in schedule 6 of the Act to provide that clause 18 is to be taken as never having been made, and that any proceeding that was dismissed under the clause may be continued accordingly.

Schedule 2 to the bill makes a number of amendments to the Criminal Procedure Act 1986. First, the Act will be amended to prevent professional costs from being awarded to the prosecution when a person who has received a penalty notice elects to have the matter dealt with by the court and lodges a written plea of guilty within the required time frame. I seek leave to incorporate the remainder of my speech in *Hansard*.

Leave granted.

In 1998, the Government introduced reforms to enable defendants in summary criminal proceedings to inform the court of their plea in writing. A key objective of these reforms was to streamline procedures by reducing time-consuming, costly and unnecessary appearances before the court.

The Government is aware of a number of cases where people who received penalty notices and lodged a written plea of guilty with the court, had costs awarded against them in their absence. These costs amounted to hundreds of dollars. The Government is concerned that the imposition of costs in these circumstances is likely to undermine the effectiveness of the objective of the 1998 reforms.

Second, the *Criminal Procedure Act* will be amended to provide that costs orders may only be made against the prosecution in summary criminal proceedings in the Supreme Court and other higher courts where proceedings were brought or conducted in an improper manner. This will align the situation in the Supreme Court and other higher courts to that which currently exists in the Local Court.

Third, the Act will be amended to provide that the Supreme Court and other higher courts may make costs orders against a party in summary criminal proceedings, on an adjournment, due to unreasonable conduct or delays. Once again, this will align the situation in the Supreme Court and other higher courts to that which currently exists in the Local Court.

Amendments to the Crown Prosecutors Act 1986

Schedule 3 of the bill will amend the *Crown Prosecutors Act 1986* to specifically enable Crown Prosecutors to exercise their functions on a part-time basis by arrangement with the Director of Public Prosecutions.

Amendments to the District Court Act 1973

Schedule 4 of the bill will amend the *District Court Act 1973* to give a right of appeal to the Supreme Court against interlocutory orders of the Judicial Registrar of the District Court.

Currently, only judgements or final orders of the Judicial Registrar may be appealed. Given that interlocutory orders of the Judicial Registrar may affect a party's substantive legal rights, it is appropriate that there be an avenue for appeal against such orders.

Amendments to the Judges Pensions Act 1953

Schedule 5 of the bill will amend the *Judges Pensions Act 1953* to enable judges' pensions to be paid fortnightly instead of monthly. This will create efficiencies by enabling all pensions and salaries paid through the Attorney General's Department's payroll system to be processed at the same time.

Amendments to the Land and Environment Court Act 1979

Schedule 6 of the bill will amend the *Land and Environment Court Act 1979* to enable Commissioners of the Court to make cost orders with the concurrence of any judge of the Court.

Currently, the concurrence of the Chief Judge is required and this results in inconvenience and delay if the Chief Judge is away, and creates potential conflicts of interest where the Chief Judge has had a connection with individuals or corporations that are litigants in the Court.

Amendment of the Legal Profession Act 2004

Schedule 7 of the bill will amend s.353(3) of the *Legal Profession Act 2004* to make an amendment consequential to the amendment made by Schedule 2, clause [9].

Amendments to the Local Courts Act 1982

Schedule 8 will amend the *Local Courts Act 1982* to increase the age to which acting magistrates may be appointed from 72 to 75. This will make the age limit for acting magistrates in the Local Courts the same as that for acting judges in other courts.

Amendments to the Public Defenders Act 1995

Schedule 9 of the bill will amend the *Public Defenders Act 1995* to specifically enable Public Defenders to exercise their functions on a part-time basis by arrangement with the Senior Public Defender.

Amendments to the Public Trustee Act 1913

Schedule 10 of the bill will amend the *Public Trustee Act 1913* to enable the Public Trustee to receive funds from the Supreme, District and Local Courts and the Dust Diseases Tribunal, which has been paid into court, for investment in the Public Trustee's common fund.

The *Civil Procedure Act* and *Rules*, which apply to the Local, District and Supreme Courts and the Dust Diseases Tribunal, provide for the payment of funds by registrars into the Public Trustee's common fund.

However, the *Public Trustee Act* currently only allows the Public Trustee to receive funds for payment into the common fund from the Supreme Court. A consequential amendment is needed to enable the Public Trustee to receive funds from all courts and tribunals covered by the *Civil Procedure Act* and *Rules*.

These amendments will improve the efficiency and operation of the courts.

I commend the bill to the House.

The Hon. DAVID CLARKE [8.19 p.m.]: The purpose of the Courts Legislation Amendment Bill is to make a series of amendments and additions to a number of Acts that deal with the operation, conduct and powers of our courts, and ancillary matters. The Government states that the bill is part of its legislative review and monitoring program. While the Opposition does not oppose the bill, it is nevertheless clear to the

Opposition that, in part at least, it is rectifying problems created by mistakes and oversights in earlier Government legislation and that, in other areas, it is making changes and amending processes that should have been dealt with previously and are long overdue.

For example, one of the amendments proposed by this bill seeks to rectify a problem that the Attorney General appears to have created in the first place. By this bill the Civil Procedure Act 2005 will be amended to provide that proceedings that have been taken to be dismissed under the Civil Procedure Regulation 2005, before repeal of that provision by the Civil Procedure Amendments (Savings and Transitional) Regulation 2005, are deemed never to have been dismissed. The background to this problem—which, as I have said, appears to have been created by the Attorney General—is that previously clause 18 of the Civil Procedure Regulation 2005 provided that proceedings in the Local Court and District Court were taken to have been dismissed if there had been no progress for 12 months.

Because this provision operated more widely than was intended and also because proceedings in the Local Court and District Court could be dismissed in any event pursuant to Uniform Civil Procedure Rule 12.9 when there was no progress, it was repealed. As there may be cases affected by clause 18 of the Civil Procedure Regulation 2005 before its repeal, this bill amends the Civil Procedure Act 2005 to provide that clause 18 is to be taken as never having been made and that any proceedings in the Local or District courts that were dismissed pursuant to clause 18 may be continued as if they were never dismissed. This bill is a move to clean up that little mess, which should never have been created in the first place, by amending the Criminal Procedure Act 1986 to provide that an accused person who is served with a court attendance notice is not required to attend court if a written plea of guilty or not guilty is lodged not later than seven days prior to the first date on which the accused person is required to attend court, rather than the five-day period that is currently required.

The Criminal Procedure Act 1986 will also be amended to prevent costs from being awarded to the prosecution in relation to an offence for which a penalty notice has been issued in circumstances in which the accused person has elected to have the matter dealt with by a court and has lodged a written plea of guilty within the seven-day period. This is intended to prevent a recurrence of past instances when those receiving a court notice had lodged in writing a plea of guilty, and in their absence, an order for costs was still made against them.

By further amendment to the Criminal Procedure Act 1986, provision is made for the Supreme Court, the Land and Environment Court and the Industrial Relations Commission of New South Wales to make orders for costs against a prosecutor, on an adjournment—in relation to unreasonable conduct or delays—in summary criminal proceedings on the same basis as in a Local Court in such proceedings.

A new addition to the Criminal Procedure Act provides that a court could order that the prosecutor pay professional costs to an accused person if the matter is dismissed or withdrawn, but only if the court is satisfied as to the existence of certain circumstances, such as the investigation into the alleged offence having been conducted in an unreasonable or improper manner. However, the proposed section does not apply in relation to occupational health and safety proceedings. By further amendment a court may, at its discretion, or on the application of a party, order one party to pay costs if the matter is adjourned because of unreasonable conduct or delay of the party against whom the order is made. Provision is made for a public officer or a police officer to be entitled to indemnity by the State for any costs awarded against the officer personally as the prosecutor in any criminal proceedings in which the officer is acting in the capacity of a public officer or a police officer.

The bill amends the Crown Prosecutors Act 1986 and the Public Defenders Act 1995 to enable Crown prosecutors and public defenders to exercise their functions on a part-time basis by arrangement with the Director of Public Prosecutions or the Senior Public Defender. Currently judgments or final orders of the Judicial Registrar of the District Court may be appealed to the Supreme Court, but interlocutory orders cannot be appealed. As interlocutory orders may affect a party's legal rights quite substantially, this anomaly is removed by amending the District Court Act 1973 to allow a right of appeal to the Supreme Court from an interlocutory order of a Judicial Registrar as well.

The Judges Pension Act 1953 is amended to enable judges' pensions to be paid fortnightly instead of monthly, which brings the payment of their pensions into line with the payment of all others that are paid through the Attorney General's Department. Currently Commissioners of the Land and Environment Court make costs orders with the concurrence of the Chief Judge. By amendment to the Land and Environment Act 1919 such orders can be made with the concurrence of any judge of the court, thus avoiding unnecessary delay involved in obtaining the Chief Judge's concurrence and also avoiding possible conflict of interest when the Chief Judge has had a connection with one of the litigants in the case.

The Local Court Act 1982 is amended so that the age restriction for the appointment of magistrates for a limited tenure, or the reinstatement of magistrates for additional terms of office, is lifted from 72 to 75 years, in line with the provision for acting judges in other courts. The Public Trustee Act 1913 is amended to allow the Public Trustee to receive money paid into the Local Court, District Court, Supreme Court and Dust Diseases Tribunal for investment in the Public Trustee's Common Fund.

Overall the bill amends, updates and finetunes a wide array of legislation dealing with the operation of our State's court system. Part of the bill is necessary to rectify earlier government mistakes and misjudgments, and the balance is necessary to bring about changes and updates that are long overdue. As I said, the bill is not opposed by the Opposition.

Reverend the Hon. Dr GORDON MOYES [8.26 p.m.]: I speak on behalf of the Christian Democratic Party to the Courts Legislation Amendment Bill, which makes various amendments to legislation relating to the court system. As the two previous speakers have gone into detail, I will not. The provisions in the bill have arisen as a result of the Attorney General's regular legislative review and monitoring program, which looks for ways in which the current court system can be made more effective and efficient. I seek leave to incorporate in *Hansard* a list of the Acts that the bill amends.

Leave granted.

The Civil Procedure Act 2005; the Criminal Procedure Act 1986; the Crown Prosecutors Act 1986; the District Court Act 1973; the Judges Pensions Act 1953; the Land and Environment Court Act 1979; the Legal Profession Act 2004; the Local Courts Act 1982; the Public Defenders Act 1995 and the Public Trustee Act 1913.

As the amendments canvass many incidental changes to these laws, I will not exhaustively cover each of them. I simply refer members to the second reading speech by the Parliamentary Secretary in the other place. However, I draw the attention of honourable members to some of the more salient aspects of the bill, as the Hon. David Clarke has just done on other issues. It is quite interesting that we have both come upon some salient issues from different perspectives.

The bill amends the Civil Procedure Act 2005 to provide that proceedings taken to have been dismissed under clause 18 of the Civil Procedure Regulation 2005 before the repeal of that clause by the Civil Procedure Amendment (Savings and Transitional) Regulation 2005 are taken to have never been dismissed. Clause 18 of the Civil Procedure Regulation 2005 provided for the automatic dismissal of civil proceedings after 12 months of inactivity, presumably to clear any bottlenecks in case management. In the second reading speech the Minister said:

Clause 18 has been repealed because it operated more widely than intended and because it was unnecessary as the Local Court and District Court could use Uniform Civil Procedure Rule 12.9 to dismiss proceedings where there was no progress.

That raises a couple of interesting questions. The Government has indicated that a small number of cases may have been affected by clause 18. For the benefit of my understanding, I would like to know how many cases are affected by this amendment. At first blush, where proceedings have been dismissed and now under this bill may be continued, litigants will need to prepare themselves to come before the court once again. I hope honourable members realise what that means. The apparent retrospective nature of this amendment may do more harm than good. The Legislation Review Committee stated, "The Committee notes that this amendment may adversely impact on defendants who had had litigation against them dismissed." I also note that the committee does not consider that the revival of cases taken to have been dismissed unduly trespasses upon personal rights and liberties. I would think that that is exactly what it does.

A number of amendments made by the bill relate to the awarding of costs against a party. For example, schedule 2 to the bill amends the Criminal Procedure Act 1986 to prevent professional costs from being awarded to the prosecution where a person who has received a penalty notice elects to have the matter dealt with by the court and lodges a written plea of guilty within the required time frame. In 1998 the Government introduced reforms to enable defendants in summary criminal proceedings to inform the court of their plea in writing. A key objective of those reforms was to streamline procedures by reducing time-consuming, costly and unnecessary appearances before the court.

The bill also provides that the Supreme Court and other higher courts may make costs orders against a party in summary criminal proceedings, on an adjournment, due to unreasonable conduct or delays. The bill will

amend the District Court Act 1973 to give a right of appeal to the Supreme Court against interlocutory orders by the Judicial Registrar of the District Court. The present state of play allows appeals only from final orders of the Judicial Registrar. The second reading speech says that:

... given that interlocutory orders of the Judicial Registrar may affect a party's substantive legal rights, it is appropriate that there be an avenue for appeal against such orders.

The bill makes a couple of other amendments. The Judges' Pensions Act 1953 is amended to enable judges' pensions to be paid fortnightly instead of monthly. That is very sensible as it brings their payment into line with other salaries and pensions paid through the payroll system of the Attorney General's Department. The Local Courts Act 1982 is amended to alter from 72 years to 75 years the age restriction in respect of the appointment of magistrates for limited tenure or the reinstatement of magistrates for additional terms of office. The amendment will allow acting magistrates to serve until they are 75, but the retirement age of full-time magistrates will remain at 72. This will make the age limit for acting magistrates in the Local Court the same as that for acting judges in other courts. It is clear that these amendments appear inconsequential, but I trust that they will bring about a real change in the efficient administration of the courts.

Ms LEE RHIANNON [8.31 p.m.]: With one important exception the Greens support the Courts Legislation Amendment Bill, which amends a raft of Acts. We support the capacity of the court to award a defendant professional costs in circumstances where the prosecutor fails to appear. We also support the part-time employment of Crown prosecutors and public defenders. We support litigants having a right of appeal to the New South Wales Supreme Court to challenge the interlocutory orders of the Judicial Registrar of the District Court. We also support the ability of magistrates to work until they are 75. For the sake of completeness, we also support the capacity of judges to be paid monthly instead of fortnightly. What we do not support is the ability of the court to order costs to be paid to the prosecution out of the pockets of the accused, the convicted or the acquitted. The Greens believe that this form of cost recovery is inherently unjust as it in effect an additional penalty upon these people, small businesses and other organisations.

We note that the Government has taken steps to protect prosecutors acting in a public capacity against costs orders but has not done the same for accused. When one compares the limitless pockets of the State with those of private citizens or small business it is immediately apparent that one side has much greater resources than the other. One side will be much more capable of paying the costs order compared with the other. On top of that, an unpaid costs order will become a judgment debt that could see an accused, innocent or even acquitted person have their personal property removed by the Sheriff to pay that debt. That is an act that surely raises the spectre of the injustices perpetrated by the Sheriff of Nottingham.

The cost recovery of thousands of dollars against a person or a small business by the State will threaten the livelihoods and jobs of people who are in no way associated with the case before the court. In fact the only link between a person having to sell a property or lose a job will be their relationship with the person who has a costs order issued against them. Costs orders are inherently bad policy in the criminal law, an area of law that impacts upon the poor and the young more frequently and severely than other courts. Even the threat of cost recovery could impact upon a person's decision on how to plead to an offence, which is surely a concept that runs counter to a good and fair judicial system. What is to stop a young person who cannot afford a lawyer and who is not eligible for legal aid weighing up their options and taking the more certain position of a quick plea of guilty in an attempt to avoid the possibility of costs being awarded? It is unjust, unfair and unreasonable. I urge the House to reject the bill in its current form. In Committee I will move amendments to seek to repair these policy defects.

The Hon. HENRY TSANG (Parliamentary Secretary) [8.35 p.m.], in reply: I thank members for their contributions to the debate. The amendments in the Courts Legislation Amendment Bill 2006 are aimed at improving the efficiency and operation of New South Wales courts. Parties to summary criminal proceedings before any courts will be deterred from unreasonably delaying proceedings because doing so may result in costs being awarded against them.

People who receive penalty notices and elect to go to court will not be deterred from entering a written plea of guilty, because the prospect of costs being awarded against them will be removed. This is consistent with the Government's policy of encouraging defendants to enter an early plea of guilty, thus saving both the courts and the parties time and money. Some of the amendments in the bill will enhance the rights of litigants before the courts. A party who is not satisfied with an interlocutory decision of the Judicial Registrar of the District Court will now have the right to appeal the decision. Other amendments will increase flexibility in the

appointment of acting magistrates and in the management of crown prosecutors and public defenders. Further amendments will improve the civil procedure reforms that were passed earlier this year. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

Consideration in Committee ordered to stand as an order of the day.

WORKERS COMPENSATION LEGISLATION AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

Reverend the Hon. FRED NILE [8.38 p.m.]: The Christian Democratic Party supports the Workers Compensation Legislation Amendment Bill, which amends the Workers Compensation Act 1987 and the Workplace Injury Management and Workers Compensation Act 1998. It has two main aspects, which, although not major changes to the law, are important. The first introduces a revised proposal for the grouping of related employers when assessing their workers compensation premiums. This amendment is to ensure that employers cannot structure their companies in such a way that they avoid paying their fair share of premiums. Currently related companies are treated separately when calculating their premiums, as smaller companies do not have their premiums adjusted for claims experience.

Companies with a poor claims record can gain a benefit by splitting their businesses into smaller companies. That is obviously contrary to the principles of the scheme, which seeks to encourage poor performers to improve their safety record. An increase in the cost of premiums as a result of injuries and deaths in the workplace acts as an incentive to companies to implement safety procedures to reduce the number of accidents and thus their premiums. This proposal will see the combined basic tariff premium of the entire group used to determine the extent to which the companies' claims records are utilised in premium calculations.

I have an obvious concern about this arrangement. If one company in the group is involved in construction or mining—industries that have a high rate of serious injuries or even deaths—all the companies in that group will pay higher workers compensation premiums. That may seem fair from the Government's point of view. The bill is designed to stop companies deliberately splitting their businesses into smaller entities in order to avoid paying premiums. However, it could be a double-edged sword. If a group company that is involved in a high-risk industry is performing poorly and paying higher workers compensation premiums, the combined basic tariff of the entire group will be more expensive. The bill does not make it clear whether it will target those companies that are manipulating the system in an attempt to reduce their premiums. Will it make some provision for companies that have operated in good faith for many years and never tried to avoid paying workers compensation premiums?

WorkCover has agreed that it will cap any individual increase in premiums resulting from this change as part of a transition period to 25 per cent each year for three years. That will assist some of the companies that I would define as "genuine". Overall, these grouping changes are intended to be revenue neutral, with some employers having increased premiums and some enjoying a cut in premiums—I will be surprised if that happens to too many companies. The bill also repeals earlier uncommenced provisions introduced for grouping in 2002. In line with payroll tax provisions, the grouping provisions will not apply to employers when the wages paid by group members do not exceed \$600,000. In addition, charities may apply to WorkCover to obtain an exemption from grouping for a group member whose business is not in direct competition with commercial enterprises.

The bill also deals with companies—some of which may be genuine and some of which may be seeking to avoid their responsibilities in this area—that transfer to the Commonwealth's Comcare scheme. WorkCover obviously cannot charge premiums for companies that are members of the Commonwealth scheme. However, those companies must continue to comply with the New South Wales occupational health and safety laws administered by WorkCover. That means that the Commonwealth gets the premiums and WorkCover receives no reimbursement for the expenses it incurs in fulfilling its obligations required under the law.

The bill will ensure that WorkCover is funded by a levy on the workers compensation premiums of employers that have joined Comcare. They will be required to contribute to WorkCover's occupational health

and safety functions. Comcare employers will be levied for a fair share of WorkCover's regulatory occupational health and safety role while those employers remain subject to those laws. This will result in a small increase in revenue. The bill contains several other minor changes. The Christian Democratic Party is pleased to support the legislation and ensure that WorkCover continues to play an important role in this State.

Ms SYLVIA HALE [8.44 p.m.]: The Greens support the Workers Compensation Legislation Amendment Bill, which amends workers compensation legislation in three main ways. First, for the purposes of calculating workers compensation premiums it groups together companies that have common ownership and control and a combined payroll exceeding \$600,000 per year. Second, it makes associated entities jointly liable for the payment of premiums. Third, it makes employers who insure with the Federal Comcare scheme liable to pay proportionate contributions to the New South Wales scheme.

Proposed division 2A, "Grouping of employers for insurance purposes", will have the effect of treating companies that are related to other companies as one group for the purpose of calculating premiums. This will have the positive effect of discouraging companies from breaking themselves into smaller corporate entities to avoid paying true premiums. For example, a company might place all its construction workers in one company and pay one rate and put its office staff in another and pay a lesser rate. The Greens take a very dim view of companies that try to use complex legal structures to avoid their responsibilities. Of course, many companies will always try to pay as little as possible when it comes to their tax and WorkCover obligations. This legislation will assist the WorkCover Authority by ensuring that all employers pay their fair share and that injured workers are looked after.

Some companies unscrupulously conjure up different legal entities in order to avoid their statutory obligations. The most extreme example we have seen in this country of a corporate entity endeavouring to shield itself from a possible payout was the attempt by James Hardie Australia to bury itself in its Dutch parent company to avoid being forced to pay compensation to people who had been harmed by its asbestos products. James Hardie tried to avoid its obligations but it did not succeed. Other companies may seek to use structures in an effort to minimise their payments to WorkCover.

As I said, proposed division 2A will have the effect of treating related employers as a group. The group will be registered with the WorkCover Authority. The group will be required to take out all relevant insurance policies with the one agent and to have a common renewal date. Proposed section 175E gives the WorkCover Authority discretion to exclude from a group some employers, such as charities, whose operations are not in direct competition with those of a commercial entity.

Proposed section 175F spells out the grounds for the exercise of that discretion to exclude employers from a group. The authority is empowered to inspect records to determine whether an employer is part of a group. An employer who attempts to wilfully obstruct or delay authorised WorkCover Authority personnel will be subject to a fine. If an employer member of a group fails to pay the insurance premium, every member of that group will be jointly and severally liable for that amount. WorkCover is thereby enabled to recover the outstanding premium from other entities or individuals within the employer group.

Proposed section 39A provides that Comcare employers must contribute to the WorkCover Authority Fund. This proposal is made on equity grounds. Comcare employers will be required to meet their proportionate obligations to fund WorkCover's responsibilities under New South Wales occupational health and safety laws. The Greens support the WorkCover system and this bill.

The Hon. HENRY TSANG (Parliamentary Secretary) [8.48 p.m.], in reply: I thank honourable members for their contributions to this debate. The proposal for grouping larger, related-entity employers for workers compensation purposes is the result of a great deal of consultation with unions and employer groups. As a result of this consultation the existing legislative provisions are repealed by the bill and replaced with a more workable system that is linked closely with grouping for payroll tax purposes. In addition to the grouping proposals, I urge honourable members to support the other measures in the bill.

The Comcare levy provisions in the bill are a sensible measure that will ensure that New South Wales employers that are members of that scheme bear a fair share of the costs of the regulator. A bill is currently before the Commonwealth Parliament that would make all Comcare licensees subject to the Federal Occupational Health and Safety (Commonwealth Employment) Act 1991. Where Comcare licenses an employer for both occupational health and safety and workers compensation, the rationale for requiring the contribution no longer applies. Therefore, the bill contains a provision that clarifies that if a Comcare licensee becomes

subject to Commonwealth occupational health and safety legislation then that Comcare licensee will no longer be liable to pay the contribution to WorkCover.

The proposal in the bill to enable the excess payable by employers to be set in the insurance premiums rather than in the regulations is also a practical measure for which I urge support. In relation to the point raised by Reverend the Hon. Fred Nile, I advise the House that the grouping provisions of the bill will not affect the individual claims cost of separate employers in the group. The change is the extent to which claims experience is factored into their premium calculations. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

LOCAL GOVERNMENT AMENDMENT (MISCELLANEOUS) BILL

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

Motion by the Hon. Henry Tsang agreed to:

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

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

TOTALIZATOR LEGISLATION AMENDMENT (INTER-JURISDICTIONAL PROCESSING OF BETS) BILL

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

Motion by the Hon. Henry Tsang agreed to:

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

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

DRUG MISUSE AND TRAFFICKING AMENDMENT BILL

In Committee

Clauses 1 to 4 agreed to.

Reverend the Hon. FRED NILE [8.57 p.m.]: I move Christian Democratic Party amendment No. 1:

No. 1 Page 3, schedule 1 [1], lines 4-6. Omit all words on those lines.

This amendment refers to page 3, item [1] which uses the vague words:

Insert "or a clinical trial" after "study" wherever occurring.

The Christian Democratic Party has endeavoured to find out what the clinical trial is about but has not got any satisfactory answers. As honourable members know, widespread debate was held a year ago on proposals for a trial to supply heroin to addicts as opposed to the supply of needles in the Kings Cross injecting room. Some people—I believe wrongly—propose a trial involving the actual supply of heroin. That is, the Government would become the dealer, the pusher. We are not saying that that is the nature of the clinical trial referred to, because we cannot find out exactly what is to be trialled. To remove any doubt about the matter, I have moved the amendment to remove the words from the bill.

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) [8.59 p.m.]: The Government accepts the Christian Democratic Party amendment. For the purpose of the record—as Reverend the Hon. Fred Nile and I have discussed on a number of occasions—the exemption for

clinical trials is not included with cannabis or heroin in mind. All the exemption would have done is provide consistency with the current provisions in the Drug Misuse and Trafficking Act in relation to scientific research, instruction, study or analysis. The exemption would not even have given New South Wales the power to authorise actual clinical trials, set up a separate clinical trial regime, or weaken the stringent standards of current clinical trials as provided by the Commonwealth Therapeutic Goods Administration.

While the concerns expressed are, in the Government's view, totally unfounded and reflect a lack of faith in the Commonwealth therapeutic goods regulatory regime, given that they would unnecessarily delay the passage of this important bill and were clearly unduly concerning many members of the community, the Government has taken the view that the Christian Democratic Party amendment has merit and will accept it.

The Hon. DAVID CLARKE [9.01 p.m.]: The Opposition likewise will support the amendment proposed by the Christian Democratic Party. We have the same concerns as the Christian Democratic Party on this issue.

Amendment agreed to.

The Hon. DAVID CLARKE [9.02 p.m.], by leave: I move Opposition amendments Nos 1 and 2 in globo:

No. 1 Page 4, schedule 1 [8], proposed section 24 (3A), lines 25-30. Omit all words on those lines.

No. 2 Page 4, schedule 1 [8], lines 36-38. Omit the following:

or

(b) is satisfied that the defence referred to in subsection (3A) has been made out,

The Opposition is very supportive of the bill's creation of a new offence of "exposing a child to the manufacturing or production of illegal drugs". Specifically, the bill makes it an offence for a person who manufactures or produces, or who knowingly takes part in the manufacture or production of, a prohibited drug, to expose a child—defined as being a person under the age of 16 years—to the manufacturing or production process, or to substances being stored for use in that manufacturing or production process.

Clearly the Government regards this new offence, the purpose of which is to provide protection to children from exposure to the production of illegal drugs, as very important, because it then goes on to provide some very hefty penalties. Provision is made for a penalty of 2,400 penalty units, currently \$264,000, or imprisonment for 18 years, or both. In addition, for an aggravated form of this offence where the drug produced is not less than the commercial quantity, provision is made for a penalty of 4,200 penalty units, currently \$462,000, or imprisonment for 25 years, or both. If the offence involves not less than the large commercial quantity, then the penalty is increased to 6,000 penalty units, currently \$660,000, or life imprisonment, or both. The Opposition agrees that hefty penalties are in order for this offence, which is a very serious one.

But then, for reasons best known to itself, the Government goes on to allow a defence to a prosecution for the manufacture and production of prohibited drugs in the presence of children if the defendant "establishes that the exposure of the child to the prohibited drug manufacturing or production process or to substances being stored for use in that manufacturing process or production process, did not endanger the health or safety of the child." Having legislated for a new offence, the Government then rips a gigantic hole right in the middle of it, providing an escape hatch for drug criminals. It is like milking the cow and then kicking over the can of milk.

We do not need convictions for this new offence involving children being evaded because of arguments over what does and what does not constitute a danger to the health or safety of the child. The truth is that there will always be a danger to the health, safety and wellbeing of children exposed to the production of illegal drugs. And there are many dangers to children that may arise from their exposure to the manufacture of illegal drugs. There is not only the physical danger and emotional danger, but there is also the fear that children will be exposed to the possibility of acquiring criminal habits. Does that not constitute a potential danger to the health and safety of a child? Is there not exposure to the possibility of acquiring criminal habits potentially of equal seriousness as a danger to a child's health or safety?

In each of those situations—exposure to physical danger, exposure to emotional danger, or exposure to the risk of acquiring criminal habits—we are dealing with consequences and dangers that may not become apparent for years to come. The evidence of such detrimental consequences to a child might not become

apparent for years. In the case of emotional damage, that is certainly very likely to be the case. For example, a child who has been sexually abused may not manifest emotional ill effects for years. Children exposed to physical danger—for example, fumes from substances involved in illegal drug manufacturing—may not show any attributable health problem for many years. We only need look at the sad example of those exposed to asbestos succumbing to serious health problems and death many years later. Likewise, the acquisition of criminal tendencies by children exposed to illegal drug manufacturing may only manifest itself after a lapse of some years.

The Opposition believes there should be no ifs and buts. There should be strict liability, with no escape hatches for criminals to wriggle out of this new offence. Accordingly, the Opposition urges passage of these very reasonable amendments. The balance should weigh in favour of the protection of children from the evils of the illegal drug industry, and not in favour of criminals who not only manufacture illegal drugs but also knowingly expose children to their production. Exposure of children to the manufacture or production of illegal drugs should always, and without exception, be taken to be a threat to their health and safety, physical or emotional. Their exposure to this criminal activity is nothing less than teaching them criminal habits. It is a serious matter, and rules of strict liability should apply. It should be a crime without any escape clauses. The Coalition's amendments will achieve this purpose.

Reverend the Hon. FRED NILE [9.07 p.m.]: The Christian Democratic Party is pleased to support the amendments moved by the Hon. David Clarke. We agree with the arguments he presented. He referred to health and safety, and we would be concerned also about the moral impact of this activity on children being in a place where illegal drugs are being manufactured. Children should not be present while those activities are taking place. We should support the amendments so that the bill is a clear deterrent to any individuals who are so indifferent to the welfare of their children or other people's children that they would allow those children to be in the vicinity of the place where illegal drugs are being manufactured. We strongly support the amendments.

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) [9.08 p.m.]: The Government does not support the amendments. The provision of a defence actually reverses the onus of proof in relation to the risk of harm. This means that the prosecution does not even have to prove the harm. The risk of harm would then be assumed, with the burden of proof shifting to the defendant if it is argued that the health and safety of the child was not endangered.

The Commonwealth, for example, introduced a similar offence in the Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005. Section 3.10.4 of that Act creates an aggravated manufacturing offence where the child is exposed to the manufacture of a controlled drug or a precursor, or to the manufacture of a controlled precursor. The Commonwealth offence also has a defence in the same terms as the New South Wales defence proposed. However, it is harder for persons in New South Wales to raise the defence as they have to prove it on the balance of probabilities, whereas for the Commonwealth offence a defendant only has to satisfy an evidential burden, that is, to point to evidence that it is a reasonable possibility that a child was not endangered. The New South Wales offence is, in several respects, tougher. The New South Wales offence requires a mere exposure, whereas the Commonwealth offence requires reckless exposure, which means proof that the accused appreciated the risks and proceeded regardless.

The New South Wales offence covers children under 16, whereas the equivalent Commonwealth offence covers only children under 14. This offence is about harm to safety and health. It is deliberately broad to make sure no-one is missed. However, because of the sweeping ambit of the offence and the seriousness of the aggravated penalties, which are very significant, if there is any issue at all about harm that should be resolved it should be addressed by reversing the onus of proof and be the responsibility of the defendant. It has to be remembered that the defence relates only to the new 18- and 25-year aggravated offences and, if made out, the offender still faces a 15- or 20-year maximum penalty for manufacturing.

Reverend the Hon. FRED NILE [9.10 p.m.]: I find that argument of the Government strange, because retaining the words, "did not endanger the health or safety of the child" would appear to put the onus on the Government. That is how I read it. If we take it out, the Government does not have to prove anything other than that the child was there. That is my simple interpretation of the legislation. Take that section out and it is simply a black and white offence; put that in and you have problems. That is how I interpreted it. The advice does not seem to add up.

The Hon. David Clarke: Your interpretation is correct.

Reverend the Hon. FRED NILE: You are a lawyer. You ought to explain it to the Minister.

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) [9.11 p.m.]: I believe I have set out the argument fairly clearly, but for the information of the Committee and in response to Reverend the Hon. Fred Nile, my advice and the position the Government is taking is consistent with what he outlined. We are talking about the process of prosecution and the fact that the prosecution is obliged to prove the offence. That is the nature of our court system. I have outlined the rationale that the aggravated offence has to be proved to cause harm. The Government takes that view; that is correct public policy. We understand the logic behind Reverend the Hon. Fred Nile's concern. If I understand him correctly, and if I understand the Hon. David Clarke's remarks correctly, they require this to be a strict liability. The Government maintains the view that the prosecution needs to be able to prove this. I simply make the observation that, both in penalties and standards of proof in their defence, this is tougher legislation than the existing Commonwealth legislation.

The Hon. David Clarke: How can you prove a danger to the health of children that may not arise until years into the future?

The Hon. JOHN DELLA BOSCA: I am now getting into the realms of attempting to give a hypothetical legal opinion. I am afraid that I am limited to the advice that I have and to the remarks I made to the Committee about the policy rationale behind the Government's view that this should be an offence that the prosecution is required to prove. I believe that, on reflection, when seen in that light most honourable members would think this was a fairly reasonable approach. We are not talking about people getting off lightly or walking away; if the aggravated offence is not proved they still face very stiff penalties for manufacture per se. This is an additional offence and it must be proved in accordance with the conventional approach to this kind of law. Their recklessness and the burden of proof for the child being endangered still is with the prosecution.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 15

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

Noes, 22

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

Pair

Mr Colless

Ms Burnswoods

Question resolved in the negative.

Amendments negatived.

Reverend the Hon. FRED NILE [9.21 p.m.], by leave: I move Christian Democratic Party amendments Nos 2 to 4 in globo:

No. 3 Page 5, schedule 1 [11] proposed section 25 (2D), line 19. Omit "(other than cannabis leaf)".

No. 4 Page 10, schedule 1. Insert after schedule 1 [25] and before line 10:

[26] Schedule 1

Omit the matter relating to Cannabis leaf, Cannabis oil, Cannabis plant and Cannabis resin. Insert instead:

Cannabis leaf	100.0g	1.0g	300.0g	8.6kg	35.0kg	—
Cannabis oil	2.5g	1.0g	5.0g	250.0g	1.0kg	—
Cannabis plant	—	2	20	40	200	—
Cannabis resin	12.0g	2.0g	36.0g	1.0kg	4.0kg	—

I have circulated a diagram showing the impact of amendment No. 4 on the current legislation, so honourable members now have a basis of comparison between amendment No. 4 and item [25] of schedule 1 to the bill. What is the point of that amendment? Honourable members know that I have been a member of this House for 25 years. Some members are grateful for that fact; others are unhappy. Over that time cannabis or marijuana has been the subject of numerous debates.

In the 1980s the then Attorney General, Frank Walker, had an attitude that I assume was shared by other members of the Australian Labor Party at that time. He seemed to regard marijuana as a harmless recreational drug. At that time there was a strong campaign to decriminalise the use of marijuana. Seminars were held on the subject. I attended some seminars that Mr Walker sponsored at which it was contended that all drug use—not just marijuana but heroin and cocaine—is victimless crime and should be decriminalised. He thought that the law should have no role in drug use and advanced certain arguments to support that contention. However, thankfully, the level of public resistance to those measures was such that they were not proceeded with, and that disastrous policy was not adopted.

Unfortunately, however, much of the Australian Labor Party legislation still reflects that mentality or philosophy, and in that regard there still some inconsistency within the Labor Government currently. Judging by his statements in the House, the Minister for Commerce, the Hon. John Della Bosca, holds conservative views and is concerned about the use of drugs. I have never known him to make a speech about decriminalisation of the use of illicit drugs. I believe the Premier holds similar views and concerns about the impacts of illicit drug use. Currently, similar views are being expressed by members of the Liberal Party, particularly the new Leader of the Liberal Party, Peter Debnam, who is very concerned about the impact of drugs on society.

There has been a great change of attitude in both major political parties about drug use, particularly marijuana. Even the Minister for Health, the Hon. John Hatzistergos, introduced a special education campaign about the dangers of cannabis or marijuana. The leadership of both parties quite explicitly and correctly is acknowledging all the new evidence. The attitude of Labor members of Parliament is different now from that expressed in the Frank Walker years. The current generation has the benefit of a flood of information about the harmful effects of cannabis or marijuana on young people, particularly its effect on mental health. As far as I am able to tell, the evidence of the harmful effects of marijuana is now undisputed. In recent days the Prime Minister, John Howard, stated:

We need to think again as a community about what messages we are sending to people about the dangers of cannabis to their mental health ... I have long been concerned about the relatively lax attitude that has been taken in Australia towards cannabis use.

He went on to state:

There is also growing evidence that many disorders are exacerbated or even brought on by drug use. This is particularly distressing in young people, but we are also seeing increasing numbers of older people with impaired mental function from long-term heavy cannabis use.

The Federal Minister for Employment and Workplace Relations, the Hon. Kevin Andrews, stated that he was worried about the use of cannabis and wanted to explore its links with welfare dependence. He also stated:

With cannabis there are consequences in terms of not just people's health, but if they are unable to work then it has an impact in terms of welfare dependence as well.

The Federal Minister for Health and Ageing also stated that the Federal Government was poised to strengthen its message about the evils of cannabis in the New Year in the light of new medical evidence. Even the Australian Medical Association, whose views waiver on some of these issues depending on who is elected as its president,

has expressed the view through its national president, Mukesh Haikerwal, that the decriminalisation of cannabis has been taken to extremes in some States, particularly when users are able to escape penalty by multiple cautions.

For the reasons I have outlined, I have moved these amendments. As honourable members would know, when the bill refers to penalties in items [10] and [11] of schedule 1—proposed subsections (2C) and (2D)—the penalties apply to offences concerning a prohibited drug "(other than cannabis leaf)". Although the wording is all very correct, the provisions contain a loophole or caveat to exempt cannabis leaf. Offences involving cannabis leaf appear to be regarded as being of no consequence, as though there is no concern associated with the use of cannabis leaf, and it is, therefore, exempt.

According to the bill, people who procure a person under the age of 16 years to supply, or take part in the supply of, a prohibited drug to another person, are guilty of an offence—and that includes cannabis leaf. But this bill exempts cannabis leaf, and the purpose of my amendments is to bring the bill into line with all the latest evidence on cannabis, or marijuana. As I have indicated on the chart that I circulated to honourable members, the quantities reflect the Frank Walker mentality—that marijuana, or cannabis, is a harmless drug. The bill, which I am seeking to change refers to "small quantities", but the quantities are not small at all.

A small quantity of cannabis leaf is listed as 30 grams. One gram can make two joints to be smoked with tobacco, or four cones to be smoked in a bong. Therefore a small quantity of cannabis leaf, according to the Government's bill, translates to 60 joints or 120 cones. A small quantity of resin, which has five to ten times more THC than cannabis leaf, is the equivalent of up to 100 joints or 200 cones. These are clear-cut discrepancies. Whoever determined the quantities in previous years was obviously of the view that cannabis is a harmless drug, and therefore allowed such quantities. Of course, it is those quantities on which the police act and they are required to respond according to the law. Police could say that they issued a caution to someone they found with a small quantity of cannabis. But I have just proven that a "small quantity" is not in fact small, it is large. The bill is misleading in its interpretation of the term "small quantity". I ask that the questions for each of my amendments be put seriatim.

The Hon. DAVID CLARKE [9.31 p.m.]: The Coalition takes great pride in supporting the amendments moved by the Christian Democratic Party, for the sake of the youth in our community, and urges the Government to allow its members a free vote on the amendments.

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) [9.32 p.m.]: The Government will not support any of the amendments, but the comments of Reverend the Hon. Fred Nile merit some explanation in response. He made a number of correct observations about the history of the bill. I agree with most of his interpretation of the history of the policy debate about cannabis and marijuana; that is, the views expressed by many people—and I do not want to personalise this to a previous Attorney General—"on the basis of the evidence" or "on the views that were common 25 or 30 years ago". In defence of Reverend the Hon. Fred Nile, he has been militantly consistent in this matter.

Reverend the Hon. Fred Nile: I read the medical evidence back in the 1980s; that is why.

The Hon. JOHN DELLA BOSCA: The research of Reverend the Hon. Fred Nile may have been prescient in many respects. I accept the argument put by Reverend the Hon. Fred Nile that it is important to note that the strong, publicly available medical evidence and the peer reviewed evidence is more and more against the view that many people held, including myself, 15 years ago that cannabis is a relatively harmless drug. But the community is now very conscious that there are many harms associated with cannabis that previously were not understood or well known. The harms include well-documented relationships between habitual cannabis use and serious psychiatric and depressive illnesses, as well as a number of other potential harms.

With all due respect to Reverend the Hon. Fred Nile, that is not the point at issue here. We are talking about the operation of the Drug Misuse and Trafficking Amendment Act and its relationship to other critical legislation, particularly section 35 (1) (a) of the Crimes Act, which deals with the procurement of drugs for minors, or children. The Government has formed a clear view in relation to personal use and other matters. In that context there is general acceptance by many members of the Chamber, including some on the crossbenches. However, I know that Reverend the Hon. Fred Nile does not agree with the view—he certainly does not agree with the terminologies—taken about personal use offences and getting those who put themselves at risk of serious harm from cannabis, or other illicit drugs, out of the crime drug cycle and into treatment, which often gives the best results for the community and for the individuals involved.

That is what the Government has concentrated on in the social policy content of this debate. The bill is about criminal offences in relation to various substances. The exclusion of cannabis leaf from the bill is consistent with its exclusion from other legislation relating to offences of supplying to a child. When those offences were created by the Government in 1995 Reverend the Hon. Fred Nile moved an amendment to exclude the words "other than cannabis leaf". The amendment was defeated. As was the case in 1995, nothing in this bill changes the existing law in relation to cannabis. The ambit of the offence is broad and extends beyond procuring for commercial supply for commercial purposes. It is appropriate to be consistent with the existing scheme in relation to the offence of supply to a child. The scheme of the Drug Misuse and Trafficking Act in providing different penalties for offences relating to cannabis has been a feature of the Act since it was created in 1985. The scheme has been maintained since 1985 by both Labor and Coalition governments. Similar schemes in relation to the treatment of cannabis are a feature of prohibited drug legislation in all the mainland States of Australia.

It is very important for the Committee to understand, and for Reverend the Hon. Fred Nile to acknowledge, that if a child is procured in relation to the supply of cannabis leaf an offence is already available under section 35 (1) (a) of the Crimes Act, that of recruiting a child into criminal activity, and that would include the supply of cannabis leaf.

The proposed amendment to scheduled quantities for cannabis is out of line with scheduled quantities in other jurisdictions and is at odds with the approach to cannabis that has been adopted Australia-wide for many years. While cannabis is known to have harmful effects, as Reverend the Hon. Fred Nile alluded to, it still differs from some of the other categories of illicit drugs, and its use does not correspond to fatalities in the same way as other drugs such as heroin. The Government takes the issue of cannabis use in the community particularly seriously. Since the Hon. John Hatzistergos has been Minister for Health and during the time I managed the drug and alcohol policy as a whole-of-government policy on behalf of the Government following the Drug Summit, there has been a remarkable consistency in the Government's policy framework, and that has been to encourage people by way of education and treatment to forsake the use of cannabis.

The Government endeavoured to make people aware of the harms caused by cannabis. We have increased the focus on that in recent times. The Government rejects the view that in any important operational policy sense we are soft on cannabis. We are directing our efforts at discouraging the use of cannabis and prosecuting those who criminally distributed it.

We have introduced special legislation to help police target drug supply and close businesses that are being used as covers for drug dealing. We are targeting cannabis houses in particular. Police action has been both strict and tough on commercial or large and medium quantities—to use comparative terms—of cannabis distribution. The Government has also introduced measures that will crack down on hydroponic cannabis cultivation and strengthen the police capacity to deal with hydroponic cannabis growing offences. In addition, we are providing more treatment facilities, as I have already canvassed, and improved education campaigns relating to cannabis. Our emphasis has been—and Reverend the Hon. Fred Nile has on some occasions acknowledged this fact—on programs to get people through the justice system and into treatment and rehabilitation. This has been quite successful. There is no doubt that in many respects the evaluations the Government has conducted and made publicly available have underlined the success of our policy approach.

Reverend the Hon. Fred Nile: Yes, and I support that.

The Hon. JOHN DELLA BOSCA: I acknowledge Reverend the Hon. Fred Nile's support for that approach. Indeed, the Government appreciate his support in that regard. I ask the House to note that the New South Wales Cannabis Cautioning Scheme is more restrictive than schemes implemented in other States in terms of the amounts of cannabis permitted. Our scheme, which has been positively evaluated by the Bureau of Crime Statistics and Research, allows only 15 grams whereas the schemes of most other States allow up to 50 grams. The evaluation found that the scheme has succeeded in its aim of diverting persons convicted of minor cannabis offences away from the court system. The Government is considering the report's recommendations regarding methods of enhancing the operation of the scheme, particularly with respect to counselling and treatment options for people who receive cautions.

By contrast, the honourable member's proposed amendment may render diversionary schemes, such as the New South Wales Cannabis Cautioning Scheme, less likely to be able to operate and could cause a significant upswing in the number of people who come into contact with the criminal justice system because of cannabis use to be potentially more likely to become involved in criminal distribution networks. The current

approach to cannabis has been the prevailing Government policy for some time now. It has been supplemented by further and better knowledge about the medical and scientific effects of cannabis and has proved to be most effective.

The Hon. CATHERINE CUSACK [9.42 p.m.]: The diversion program referred to by the Minister has different objectives from those articulated by Reverend the Hon. Fred Nile, who is trying to solve the problem. However, the Government is merely trying to reduce the number of people becoming involved in the criminal justice system. That does not mean that the Government is solving any part of the problem. The Government's statistics relating to the number of people charged or convicted by the courts are absolutely pathetic. We are talking about a problem that affects hundreds of thousands of people, yet barely a couple of hundred people a year are charged and even fewer are convicted. In terms of criminal penalties, offences are virtually not being enforced at all. I think the Minister's remarks in that regard were disingenuous.

I live in a part of the State that I sometimes feel is the cannabis capital of Australia—the North Coast. I certainly fall within the category of person referred to by the Minister who in the past did not regard cannabis as the problem it is today. My view has very much changed in the last 20 years, and I suspect I am further down the track than the Minister in that regard. Honourable members will be aware that recently the Mardi Grass was held in Nimbin. I remind Reverend the Hon. Fred Nile that I have previously raised in the Chamber my concerns about this disgusting event, which is attended by thousands of people whose children, who come dressed as fairies, are often as off their faces as their parents. I find it extraordinary that approval is given for such an event. The Hon. Christine Robertson has been critical of me for criticising the Ted Noff's Foundation Director of Research, John Howard, for attending the event to address a "drug psychosium" and informing people that the link between cannabis and mental health is a myth.

I mention this because of the strange comment of Reverend the Hon. Fred Nile that there has been some change of attitude by the Liberal Party leadership towards cannabis. I have detected no change whatsoever. When I questioned the credibility of a representative of the Ted Noff's Foundation who attended the Mardi Grass he said—as reported in the local newspaper—that the link between cannabis and mental health is a myth; that it was like being addicted to chocolate. When I voiced my criticism on that occasion I had the 100 per cent support of my leader. Indeed, his response to that criticism was that I should have gone harder on the issue. I have not detected any change whatsoever in my party's position on these matters. It has been a very solid position under both my leaders. I was concerned about that strange comment of Reverend the Hon. Fred Nile. Having said that, I am happy to lend my support to these amendments. I believe this issue is totally underestimated and I fear that a generation of young people on the North Coast are being destroyed. The matter is not being treated seriously.

The Hon. Dr PETER WONG [9.45 p.m.]: I also endorse the comments of Reverend the Hon. Fred Nile. As a doctor I have known for many years that cannabis is harmful. In the beginning we thought it could be as harmful as cigarettes. Now we know it is even more harmful than cigarettes. It is a major problem yet it is freely available. If the Government wishes to send a serious message about cannabis, it should support the amendment of Reverend the Hon. Fred Nile.

Reverend the Hon. FRED NILE [9.46 p.m.]: I thank the Minister for the detailed response; it obviously took some time to prepare. He confirmed my argument when he said a couple of times that the legislation is based on the 1985 model. In fact, Liberal leaders at that time would have had similar views. The Hon. Catherine Cusack said that her views had changed in the past 20 years. I was referring to that historical change, not to any change that has taken place in recent weeks. Over a period of time both the major parties have come to recognise the harm that can be caused by cannabis and other drugs.

My point is that the amendments may not be agreed to, but at least the Government has acknowledged that the legislation is based on the 1985 model. It may also give further consideration to reviewing this bill and other legislation to bring them into line with current medical and scientific information. The Minister has acknowledged that, but it is not reflected in the bill, and that is the problem I am trying to highlight tonight.

Christian Democratic Party amendment No. 2 negatived.

Christian Democratic Party amendment No. 3 negatived.

Question—That Christian Democratic Party amendment No. 4 be agreed to—put.

The Committee divided.

Ayes, 16

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

Noes, 21

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

Pair

Mr Colless	Ms Burnswoods
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Question resolved in the negative.

Christian Democratic Party Amendment No. 4 negatived.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Title agreed to.

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

ADJOURNMENT

The Hon. HENRY TSANG (Parliamentary Secretary) [9.58 p.m.]: I move:

That this House do now adjourn.

COALITION INFRASTRUCTURE INITIATIVES

The Hon. GREG PEARCE [9.58 p.m.]: Tonight I shall inform the House about some important infrastructure policy initiatives announced by the Leader of the Opposition on Friday of last week. Everyone in the Chamber knows that our State is suffering from 11 years of neglect and underinvestment in infrastructure. The Government's failure to maintain and renew our infrastructure is hurting people throughout our State on a daily basis—as they travel to work, need hospital services, or suffer in poorly maintained classrooms. Our road networks are clogged and congested, and the cross-city tunnel has become a symbol of all that is wrong with how this Government does business.

We are waiting for the Minister for Infrastructure to announce his 10-year infrastructure strategy that he promised would be delivered some weeks before the budget. At a recent Committee for Economic Development of Australia lunch, Government officials were working overtime to dampen expectations of what would be in this strategy. A senior Treasury official made it clear that the plan was not for public consumption because it might raise expectations that all the projects were real. He said:

... please don't take it we are necessarily going to do those things.

The bottom line is that the Labor Government has no plan, no commitment and no political will. The Liberal-Nationals approach will be very different. Kick-starting New South Wales will be the number one priority of a

Liberal-Nationals government, starting with a series of fiscal measures to rein in spending, cut taxes and make us competitive again. Infrastructure is central to achieving competitive advantage for New South Wales, and under a Liberal-Nationals government it would be driven from the highest level of government, that is, the Premier. Mr Debnam outlined a series of structural and administrative initiatives in our plan to kick-start infrastructure renewal in New South Wales.

First, it will ensure that there is a clear, public infrastructure plan for metropolitan Sydney and New South Wales that sets out its priorities and projects for the near and long-term, including State and Federal projects. Silo-based infrastructure decision making will end, as will separate road, transport, utility and other empires intent on their own agendas. The Coalition will use the best of the successful Olympic Co-ordination Authority model to deliver a whole-of-government approach for major infrastructure projects and significant developments that should not suffer unnecessary bureaucratic delays. It is also critical that the private sector remain involved in infrastructure delivery.

The Coalition believes there is a much greater scope to involve the private sector in public infrastructure and its planning. To achieve this it will establish an infrastructure development roundtable, which the Premier will chair, with relevant Ministers, department heads and business leaders. In a further initiative the Coalition will invite representatives of universities in New South Wales to participate in its infrastructure development roundtable. That will ensure that the under-utilised intellectual and innovation capital of universities is integrated into the economic development of our State.

The Coalition will also adopt the best of the Partnerships United Kingdom model of public-private interface, in a Partnerships New South Wales entity. Its job will be to determine the best finance vehicle for each project on its merits, across a spectrum of options from full Treasury debt funding to full private funding. The Coalition will ensure that each project is funded in a way that delivers optimum public value and outcomes for taxpayers and the community, by allocating risk and responsibility appropriately in any partnership. To deliver better value to citizens, a Coalition government will centrally negotiate all public-private partnerships through Partnerships New South Wales. This entity will bring together the most experienced and brightest minds from government departments and agencies, as well as recruit talent from the private sector.

The Coalition will also speed up planning decisions. Delays, indecision and disputes have delivered New South Wales the worst planning processes and outcomes in Australia. If we are to build more and better infrastructure we have to reduce bid costs, especially for smaller projects. Partnerships New South Wales will ensure there will no longer be a dozen different portfolios, all with their own pet methodologies and documentation. This will reduce costs, enable greater standardisation of documentation and certainty in assessment procedures, and will value add by enabling projects to be packaged in innovative ways with the private sector, so we get more bang for the buck than we can ever achieve now in existing silos.

They are just some of the policy initiatives that a Liberal-Nationals government will implement to deliver economic development to this State and make it the powerhouse of the Australian economy once again, the powerhouse that it should be after March 2007. On another occasion I will inform the House of various other initiatives in relation to infrastructure. I commend these initiatives to the House.

INFRASTRUCTURE PROJECTS

The Hon. Dr PETER WONG [10.03 p.m.]: Many great successes of Australia can be attributed to the pioneers of the past—Australians with vision who built the modern society of today. It is with great regret that political leaders of our times seem to have lost their way. Party-political survival is now firmly ahead of national interest. The rail system in New South Wales is an example. Three terms of our do-nothing Australian Labor Party Government in New South Wales has left our major public transport in disrepair. Great engineering achievements of construction by backbreaking labour are falling apart, while politicians give excuses and blame each other for the problem.

For many years before this Government, the CityRail network ran 24 hours a day. Now it only runs whenever it can, thanks to the old tracks that were laid and a system that was designed more than 80 years ago. The CityRail system is a shining example of the visionary qualities of those who built it, because it continues to serve our present population despite negligent and poor management by our government. Our previous leaders have said, "Let's build. We need infrastructure, hospitals, schools, railways, airports and projects of national significance." And they built them. Today we are left with leaders whose eyesight can only see the words "small government" and "privatisation". They talk of responsible government, yet their only response is to sell anything

they can get hold of—schools, hospitals, and aged and mental health facilities are just a few that immediately come to mind.

Before I am accused of being anti-Labor, I point out that the Federal budget handed down last night is a clear example of this lack of vision. While I congratulate the Howard Government on both luck and economic management in bringing about the massive surplus, the budget itself is a clear indication that the vision of the Federal Coalition Government does not extend beyond the next election. Give everyone a little bit of extra money and our Federal leaders believe they will remain in power forever. And perhaps they will. As for the Australian Labor Party, its members nod their heads with the same political philosophy.

We are facing a crisis with our ageing population. We are confronted with a shortage of skilled labour. Our transport is still far beyond adequate in this vast continent. And yet we lag behind other industrialised nations in terms of infrastructure such as highways, hospitals, and educational facilities. The Federal leaders have chosen the easy way out. Let us tell everyone that greed is good and that short-term benefit is worth much more than long-term planning for our nation. Indeed, great leadership skills are being shown by the Federal Government in selling our past! It has flogged off Qantas, national airports, the Commonwealth Bank, the electricity systems and even our wonderful telecommunications system, and we now watch the good Commonwealth-State brotherhood selling the Snowy Hydro scheme.

The Snowy Hydro scheme is a national icon. It was a great feat of engineering and the largest project ever undertaken in Australia. It is also a testament to Australia's social and cultural achievements, because it brought to an end Australia's monocultural cringe, its insularity, and even the White Australia Policy. The Snowy scheme itself, in its own era, was regarded as an important symbol of Australia's identity as an independent and multicultural society. It is regarded by many today as the birthplace of multiculturalism in Australia.

Following the end of the Second World War, our leaders recognised the ominous situation that Australia faced with regard to a serious shortage of skilled and unskilled labour. If the scheme and Australia's future needs were to be met, a massive recruitment campaign for migrants would be required. Throughout the 1950s and 1960s, Australia's immigration policy was guided by the ideal of assimilation. That immigration policy sought to impose Anglo-Celtic customs and traditions on migrants. By 1972, when multiculturalism was first discussed, approximately 2,500,000 unassisted migrants had arrived in Australia. Between 1949 and 1974, more than 100,000 people worked on the scheme. Approximately 70 per cent of those people were migrants who had fled war-torn Europe in search of a new life and a new land. These people brought with them new ideas, new customs and new cuisines.

In many ways, the intensity and success of the cultural mix during the building of the scheme changed the Anglo-Saxon foundation of Australian society, and eventually it helped break racial attitudes and policies. We are now not only selling this infrastructure but its heritage and achievements. The selling of the Snowy Mountains scheme is the pinnacle of the ultimate moral bankruptcy of our political leaders, Liberal and Labor alike. It is a blindness of the mind. It is a vision of hanging onto power at all costs. When future generations look back on this period they will not ask what they built; sadly, they will simply say, "They were mad."

YOUTH HOMELESSNESS

The Hon. PENNY SHARPE [10.08 p.m.]: I bring to the attention of the House the failure of the Howard Government in relation to the 9,000 young people in New South Wales who tonight have nowhere to call home. Ten years ago John Howard spoke of youth homelessness as one of the nation's great tragedies. I want to outline John Howard's failure to deal with this human tragedy. There have been many opportunities for the Howard Government to make inroads into homelessness, but it has done nothing. The Howard Government could have done something about youth homelessness through the Commonwealth-State Housing Agreement. When young people cannot reunite with their families, long-term solutions start with access to stable and affordable housing. Because young people are discriminated against in the private housing market, access to public and community housing is an essential part of tackling homelessness.

Under the previous Federal Labor Government the provision of housing was a co-operative venture between the Federal and State governments. Despite increased demand, the Howard Government has progressively withdrawn its support. Between 1996 and 2005 the Howard Government has cut \$850 million out of the public housing system. As young people try to find somewhere to sleep in tonight's wet weather, the Howard Government has done nothing.

The Howard Government could have done something about youth homelessness through the most recent five-year Supported Accommodation and Assistance Program [SAAP] agreement: 19,600 children and young people sought assistance from New South Wales SAAP services in 2004-05; 10,750 were children accompanied by their parents, most of them were with their mothers trying to escape domestic violence; and, in addition, 8,850 were young people who were under 24 years of age.

In the lead-up to the latest Commonwealth-State agreement the Government's own report indicated that to maintain current service provision the SAAP needed an additional 15 per cent increase in funding. The report also provided an option to address service viability and expand the number of places for the homeless. To do this would require a 35 to 40 per cent increase in funds. Translated into real dollars, an increase in support for SAAP in New South Wales by 40 per cent would cost the Commonwealth \$46 million a year. In a time of huge budget surpluses, what did the Howard Government offer? Just 2 per cent indexation and no increase in funding for New South Wales until 2008.

As homeless young people tonight hope that their friends' parents will not ask how long they are staying, the Howard Government continues to do nothing. It could have done something about youth homelessness in last night's budget. With \$6 billion worth of tax cuts and \$10 billion in the Federal surplus for next year, surely the Howard Government could have found the will and the funding to support our homeless young people. That it has not is a disgrace and a national shame. As we get ready to rise this evening, it is estimated that 9,137 young people in New South Wales do not have somewhere to go. Some of those young people are in youth refuges. The rest are trying to make do in very risky situations in our parks, under bridges, on our trains, with friends and also with strangers. At a time of great wealth, and despite occasionally mouthing the words, the Howard Government ignores this human tragedy and continues to do nothing.

MR PAUL HILLE GROUP HOME ACCOMMODATION

The Hon. JOHN RYAN [10.12 p.m.]: This evening I would like to speak to the Minister for Disability Services on behalf of a 19-year-old young man called Paul Hille, and many others like him, who I believe are receiving ordinary service from the Department of Ageing, Disability and Home Care. Paul has autism, an intellectual disability. I first met Paul Hille in a group home at Yagoona operated by an organisation called the Bankstown Handicapped Children's Centre. He was sleeping on a two-inch thick foam mattress in the middle of winter with nothing more to cover him than a cotton blanket. His room was filthy; it had no covering on the windows to afford him a reasonable level of privacy; and he had one set of clothes—the ones he was actually wearing, consisting of a T-shirt and jeans. To wash them, he had to stand in a towel while they were machine dried.

Honourable members might recall that I raised this matter in Parliament in June 2004. As a result Paul was moved into another group home operated by the Department of Ageing, Disability and Home Care [DADHC], a place where we would expect he would receive the best possible care. But how different it proved to be! This young man was moved to a group home operated by the department in Murray Street, Bankstown. His parents have sent me a series of emails that would shock anyone who reads them. They report that when Paul moved into this group home he was always clean, his personal hygiene was improving, his depression was improving, and he was regularly attending a Transition to Work Program.

Within weeks of being transferred to the group home, he was refusing to attend his Transition to Work Program, and he was left isolated alone in his room, deprived of community access. Staff at his Transition to Work Program reported that he was being sent to their programs with a lunch consisting of 10 packets of potato chips. His parents took him to a general practitioner, who gave him blood tests that led the practitioner to the medical opinion that Paul was being subjected to a starvation diet. These matters were reported to the department on 20 January 2006. His parents also reported to the department that they witnessed group home staff ignore the needs of another resident in the same group home having an epileptic fit. They said that staff sat motionless in their office until it was obvious that this resident's head was "striking against an office door".

Then there were two very explicit reports about sexual assaults on Paul, including one very credible report that this young lad was homosexually assaulted by one of the group home staff. Believe it or not, every matter that Paul's parents have asked the department to address has been virtually unaddressed, including their request for the installation of a heater, or that Paul be taken to a podiatrist for treatment of an ingrown toenail, or that he attend for dental treatment. However, DADHC has found the money to install a security system that allows group home staff to sit behind a heavy duty steel door sheeted in Perspex and speak to the residents through a mesh grill.

In case any member should think that I am exaggerating, I have copies of correspondence that suggests this family has every support of the Public Guardian in regard to the complaints that they have made to the department. The latest correspondence I have received from the parents is dated 7 May 2006, is addressed to a senior member of the department's staff, and states:

Paul still does not have a heater. Can you give me some indication of just how long it will take for DADHC to provide heating for residents at Murray Street? Does Paul's cold need to progress to pneumonia before someone finally considers residents' warmth as a serious concern? Perhaps if all the managers spent a weekend in the residence we would see some changes, although I note that the carers [staff] have a nice heater in their office.

Paul reports to me that a budgie's cage is still being cleaned in the bathroom sink. His mother and I had no trouble getting him to clean his teeth on Saturday when he slept over with us, but then he didn't have to share the sink with bird droppings, nor did we handle his toothbrush. This is all really simple stuff. We can't understand the reticence [of DADHC staff] to comply with what amounts to basic good hygienic practices.

I understand that finally, after months and months of trying to negotiate with DADHC staff, Paul's family have requested an appointment with Ethel McAlpine, a deputy director general of DADHC. Finally, they have got almost to the top of the tree and will have the opportunity to put their case. I am begging the Minister and DADHC to finally listen to the concerns of Paul's parents. I do not understand what attitude the department's staff have towards this young man that they feel the need to freeze him every time they get the opportunity to "look after" him. Clearly he has significant concerns but the department appears to continue to ignore them. Standards that we would expect would be easily provided in DADHC homes are simply being ignored. It is high time the practices in this Murray Street group home were reviewed. I sincerely hope the Government listens to the concerns of the parents when they are put before the Minister and the Government in a few days.

AUTISM AND THIOMERSAL VACCINATIONS

PIG FARMING

Ms LEE RHIANNON [10.16 p.m.]: Jennifer Kremmer, the mother of an autistic child, has raised with me her concerns about the preservative thimerosal, or thiomersal. This preservative contains mercury. Jennifer believes the preservative should be banned because of its possible links with autism. Coincidences between rates of vaccination and rates of autism, and similar characteristics associated with both autism and mercury poisoning, need to be investigated. Thiomersal has been removed from vaccines on the Australian Standard Vaccination Schedule for children under eight years of age, except for Engerix-B paediatric formulation. This is one of the infant hepatitis B vaccines, and the amount of thiomersal has been significantly lowered to 2 nanograms per dose. However, some adult vaccines still contain thiomersal, including some influenza vaccines. Jennifer's concerns warrant further investigation.

On another matter, pig farming in New South Wales has changed a lot since the days when pigs were free to roll in the mud. Large-scale intensive farming has taken over, with concerns for animal welfare not being allowed to get in the way of profit margins. The composition of the pork industry demonstrates this. In 2001-02, 1 per cent of New South Wales pork producers held more than 48 per cent of the State's sows; and while between 1970-71 and 2002-03 there was a 94 per cent drop in the number of pig farmers in Australia, production increased by 130 per cent. In those factory farms, the drive for increased production in the limited space available results in pigs suffering miserable and painful lives.

When pigs are allowed to live naturally they enjoy being active, grazing, walking around and rooting in the dirt with their snout. Before giving birth, sows invest a lot of time and care in making a nest for their young, walking five to 10 kilometres to find the best spot. They then spend hours preparing the site for birth, sometimes covering themselves in nest material. Piglets then enjoy a slow, gradual weaning process before they are integrated into the herd—again an essential process, as pigs are very social animals, requiring physical contact with each other. Yet in the larger factory farms now dominating pig farming in New South Wales, pigs are forced into an environment that is cruel and unnatural.

Pigs are prevented from living as they should, and a range of harsh restrictions are imposed on them. In particular, sow stalls for pregnant pigs are still legal and popular in Australia, despite being outlawed in countries like England. Trapped in a box only 0.6 metres by two metres, sows cannot even turn around, let alone engage in normal behaviours like rooting the ground. I have seen sows in these stalls, and it is appalling. As a result of being kept in them, the pigs develop stereotyped, repetitive, purposeless behaviour like chewing air, tongue rolling, head waving and trying to root in the concrete floor, thereby developing bloody lesions. Sows also become clinically depressed.

Tail docking is an undoubtedly painful practice, but it is still legally sanctioned and widespread. It is commonly justified as an attempt to prevent tail biting, but this is another practice that pigs develop when they are unable to root up the ground, have in adequate feeding space, poor or no bedding, or crowded conditions.

Still, we can be thankful for the sustained efforts of animal rights campaigners like Voiceless, a non-profit Australian organisation that stands up for pigs and other animals. As a result, over the years some degree of protection and improved conditions have been secured for pigs and there is a growing movement in the community for the humane treatment of animals. Along with Voiceless, the Greens look forward to the day when we will value the full worth of animals, not just as potential profit-making units.

We have the New South Wales Prevention of Cruelty to Animals Act but that does not protect factory-farmed animals. We have similar problems with battery hens. A hen with its wings outstretched is approximately twice the width of a typical battery cage. Battery hens cannot perch, preen, scratch in the dirt, dust bathe, spread her wings or escape to a quiet place to lay an egg. Battery cages do not allow hens to exercise most normal patterns of behaviour. Hens are prone to bone breakages and a high percentage of them have osteoporosis. Farmers cut off one-third of the chickens' beaks with a hot wire guillotine because when they are stressed and crowded hens peck at each other. A hen's body is under unnatural pressure by lighting programs, which stimulate her to lay even more eggs. Other countries have banned battery cages and it is time Australia caught up. In Switzerland the battery cage was prohibited in 1992 and in Sweden in 1998. In Australia 80 per cent of those surveyed would like to see the cage banned. [*Time expired.*]

CHILD CARE WORKERS PAY AND CONDITIONS

The Hon. IAN WEST [10.21 p.m.]: Child care workers in New South Wales are facing the personal challenges presented to them and their families by the WorkChoices legislation with the help of their union, the Hospitality and Miscellaneous Workers Union. I refer to two current instances where employers are seeking, through individual contract arrangements, to drive down the pay and conditions of workers—Childs Family Kindergartens and Cubby House Child Care. The owners and their managers at these two organisations would like people to think that they are family friendly and that they support families, but they are treating their employees with contempt and abusing the new found master-servant relationship. It seems these organisations are putting forward very similar individual arrangements. In many cases the wording of the proposed agreements is exactly the same.

The arrangements have nothing to do with flexibility or tailoring individual situations to individual circumstances or needs; it is all about providing the employer with the tools to drive down workers' pay and conditions, and maximise their own personal gain. All this is happening while petrol prices and interest rates are going up. The management of Childs Family Kindergartens is trying to push Australian Workplace Agreements [AWAs] onto the centre directors of the 37 child care centres it operates in New South Wales. The centre directors do not want to accept the AWAs. They believed they have a choice under the so-called "WorkChoices" legislation, but Childs Family Kindergartens is trying it on nevertheless. They have moved aggressively to take advantage of the Howard Government's extreme workplace legislation. They are pushing individual contracts onto the work force, which cut their wages by some \$138 a week.

If workers at Childs Family Kindergartens are forced onto individual contracts, they stand to lose rest breaks and other paid breaks. The award provides for three breaks over a seven-hour shift, with overtime for working through lunch. The individual contract removes all breaks and all rest pauses. The award provides for 17.5 per cent leave loading. The individual contract removes all annual leave loading. The award provides for 15 sick days in the first year, and 12 days thereafter. The individual contract provides for only 10 sick days per year. The award provides for an annual picnic day for child care workers, but the individual agreement removes it. The award provides for employees who are acting as supervisors to be paid accordingly. The individual contract removes it. Under the individual contract, working hours can be changed without notice and hours can be averaged over 52 weeks.

The employer can stand down an employee without pay. The award provides that if an employee is required to work at a different location, then those changes must be reasonable. The individual contract means that employees would be required to work at any location with minimal notice. The individual contracts would run for five years and in addition workers would lose the 16 per cent pay equity increases over two years that was just awarded to them, through the union, by the New South Wales Industrial Relations Commission. The commission agreed with the union's case that child care work had been historically undervalued because most employees in the industry were female. The Full Bench said,

These female employees, working with vulnerable children in their care, have in the main been unable to negotiate appropriate rates of pay. We are well satisfied that the undervaluation case was established.

If workers sign these individual agreements they will lose between \$138 and \$313 per week, depending on their classification. It is a massive amount of money and they will lose it straightaway. They cannot afford it, and they will be like that for the next five years. Under the individual agreements there will be no increases, instead pay will be set by the so-called Fair Pay Commission. In recent months, the commissioner has indicated that minimum wages can fall—and they probably will. What all this means is that under the "No WorkChoices" legislation there is no floor on where child care workers' pay and conditions can go.

Conditions and pay are in freefall under these proposed arrangements, and we are only two months into it. How low can these unscrupulous, exploitative operators and the Coalition go on? The industrial relations consultants, IR Australia, who have drawn up the individual contracts for Childs Family Kindergartens, have also been involved in drawing up another individual contract called "Cubby House Child Care Australia Workplace Agreement 2006". It is identical in most aspects to the individual contracts being pushed onto Childs Family Kindergarten workers. Most Cubby House Child Care centres are actually before and after school care centres. They operate in Sydney including in The Hills area. The private management of Cubby House Child Care are offering major pay cuts and loss of conditions to their work force.

PRINCES HIGHWAY UPGRADE

The Hon. DON HARWIN [10.26 p.m.]: The Princes Highway is a topic to which I often refer in this House, principally because, frankly, it is a goat track. Many people recognise that, particularly as to the section between Jerringong and Bomaderry. Unbelievably, for the third time in 15 years, the Roads and Traffic Authority [RTA] has decided to start a community consultation process on the Jerringong to Bomaderry link. Three community consultation meetings have been scheduled. Two have already been held, one in Berry and one in the Jerringong, and another may have been held in Bomaderry tonight.

The amazing fact is that all the information is available for the RTA to consider. I cannot understand why the honourable member for Kiama—who is also the Parliamentary Secretary Assisting the Minister for Roads and the Minister for Transport and who therefore has all the information available to him that would enable him to be directly involved in the decision—is mucking around and trying to avoid making a decision.

The honourable member for Kiama is engaging in a sham of community consultation despite having an input into the budget and into deciding road priorities. Funding should be announced for the Jerringong to Bomaderry section of road. I call on him, even at this late stage in budgetary preparations, to get his act together and make a decision instead of prolonging the consultation process.

[Time for debate expired.]

Motion agreed to.

The House adjourned at 10.28 p.m. until Thursday 11 May 2006 at 11.00 a.m.
