# LEGISLATIVE COUNCIL

Wednesday 24 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.

## JUDICIAL OFFICERS AMENDMENT BILL

## SUMMARY OFFENCES AMENDMENT (DISPLAY OF SPRAY PAINT CANS) BILL

**Bills received.**

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

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

That 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 stand as orders of the day for a later hour of the sitting.

**Bills read a first time and ordered to be printed.**

## RESTORATION OF BUSINESS OF THE PREVIOUS SESSION

### Committee Reports

**Motion by the Hon. Tony Kelly agreed to:**

That Orders of the Day of committee reports interrupted by the close of the previous session be restored to the *Notice Paper* in the order in which they last appeared.

## RESTORATION OF BUSINESS OF THE PREVIOUS SESSION

### Legislation Review Amendment (Family Impact) Bill

**Motion by the Hon. Don Harwin, on behalf of the Hon. Patricia Forsythe, agreed to:**

That a message be forwarded to the Legislative Assembly requesting that the Legislation Review Amendment (Family Impact) Bill, forwarded to the Legislative Assembly during the previous session of the present Parliament and not having been finally dealt with because of prorogation, be proceeded with under the Legislative Assembly's standing orders.

### Firearms Amendment (Good Behaviour Bonds) Bill

**The Hon. ROBERT BROWN** [11.05 a.m.]: I move:

That a message be forwarded to the Legislative Assembly requesting that the Firearms Amendment (Good Behaviour Bonds) Bill, forwarded to the Legislative Assembly during the previous session of the present Parliament and not having been finally dealt with because of prorogation, be proceeded with under the Legislative Assembly's standing orders.

**Question put.**

**The House divided.**

[*In division*]

**The PRESIDENT:** Order! Members should not read newspapers in the Chamber.

**Ayes, 32**

| | | |
|---|---|---|
| Mr Breen | Mr Gallacher | Mrs Pavey |
| Mr Brown | Miss Gardiner | Mr Pearce |
| Ms Burnswoods | Mr Gay | Ms Robertson |
| Mr Catanzariti | Ms Griffin | Mr Roozendaal |
| Mr Clarke | Mr Kelly | Ms Sharpe |
| Mr Colless | Mr Lynn | Mr Tsang |
| Mr Costa | Mr Macdonald | Mr West |
| Ms Cusack | Reverend Dr Moyes | Dr Wong |
| Mr Della Bosca | Reverend Nile | *Tellers,* |
| Mr Donnelly | Mr Obeid | Mr Harwin |
| Ms Fazio | Ms Parker | Mr Primrose |

**Noes, 4**

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

**Question resolved in the affirmative.**

**Motion agreed to.**

## JOINT SELECT COMMITTEE ON THE CROSS CITY TUNNEL

### Establishment and Membership

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

1. That a joint select committee be appointed to inquire into and report on:

   (a) the role of Government agencies in relation to the negotiation of the contract with the Cross City Tunnel Consortium,

   (b) the extent to which the substance of the cross city tunnel contract was determined through community consultation processes,

   (c) the methodology used by the Roads and Traffic Authority for tendering and contract negotiation in connection with the cross city tunnel,

   (d) the public release of contractual and associated documents connected with public private partnerships for large road projects,

   (e) the communication and accountability mechanisms between the RTA and Government, including the Premier, other Ministers or their staff and the former Premier or former Ministers or their staff,

   (f) the role of Government agencies in entering into major public private partnership agreements, including public consultation processes and terms and conditions included in such agreements,

   (g) the role of Government agencies in relation to the negotiation of the contract with the Lane Cove tunnel Consortium,

   (h) the extent to which the substance of the Lane Cove tunnel contract was determined through community consultation processes,

   (i) the methodology used by the Roads and Traffic Authority for tendering and contract negotiations in connection with the Lane Cove tunnel, and

   (j) any other related matters.

2. That the committee finally report by the first sitting day in September 2006.

3. That the minutes of proceedings, evidence, all papers, documents, reports and records of the Joint Select Committee on the Cross City Tunnel appointed on 15 November 2005, be referred to the committee.

4. That, notwithstanding anything to the contrary in the standing orders of either House, the committee consist of eight members, as follows:

(a) four members of the Legislative Council, of whom:

(i) one must be a Government member,

(ii) one must be an Opposition member, and

(iii) two must be crossbench members, one of whom will be Revd Mr Nile,

(b) four members of the Legislative Assembly, of whom:

(i) two must be Government members, and

(ii) two must be Opposition members.

5. That the members be nominated in writing to the Clerk of the Parliaments and the Clerk of the Legislative Assembly by the relevant party leaders and the independent and crossbench members respectively within seven days of this resolution being agreed to by both Houses.

6. That Revd Mr Nile be the Chair of the committee.

7. That the Chair of the committee have a deliberative vote and, in the event of an equality of votes, a casting vote.

8. That, notwithstanding anything to the contrary in the standing orders of either House, at any meeting of the committee, any four members of the committee will constitute a quorum, provided that the committee meets as a joint committee at all times.

9. A member of either House who is not a member of the committee may take part in the public proceedings of the committee and question witnesses but may not vote, move any motion or be counted for the purpose of any quorum or division.

10. That leave be given to members of either House to appear before and give evidence to the committee.

11 That this House requests the Legislative Assembly to agree to a similar resolution and name the time and place for the first meeting.

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

## JOINT SELECT COMMITTEE ON TOBACCO SMOKING

### Establishment and Membership

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

1. That a joint select committee be appointed to inquire into and report on tobacco smoking in New South Wales, and in particular:

(a) the costs and other impacts of smoking,

(b) the effectiveness of strategies to reduce tobacco use,

(c) the effects of smoke-free indoor venues on the initiation and maintenance of the smoking habit,

(d) factors affecting initiatives for smoke-free indoor areas,

(e) the effectiveness of media, educative, community and medically-based Quit initiatives,

(f) the adequacy of the budget for smoking control initiatives, and

(g) the Smoke-free Environment Amendment (Motor Vehicle Prohibition) Bill 2005 introduced by Reverend the Hon. Fred Nile in the Legislative Council.

2. That, notwithstanding anything to the contrary in the standing orders of either House, the committee consist of 11 members, as follows:

(a) four members of the Legislative Council of whom:

(i) one must be a Government member,

(ii) one must be an Opposition member, and

(iii) the Hon. Dr Arthur Chesterfield-Evans and Reverend the Hon. Fred Nile

(b) seven members of the Legislative Assembly of whom:

(i) four must be Government members,

(ii) two must be Opposition members, and

(iii) one must be an Independent or crossbench member.

3. That the members be nominated in writing to the Clerk of the Parliaments and the Clerk of the Legislative Assembly by the relevant party leaders and the Independent and crossbench members respectively within seven days of this resolution being agreed to by both Houses.

4. That, notwithstanding anything to the contrary in the standing orders of either House, at any meeting of the committee, any six members of the committee will constitute a quorum, provided that the committee meets as a joint committee at all times.

5. That the minutes of proceedings, evidence, all papers, documents, reports and records of the Joint Select Committee on Tobacco Smoking appointed on 28 February 2006 be referred to the committee.

6. That the committee report by 30 June 2006.

7. That this House requests the Legislative Assembly to agree to a similar resolution and name the time and place for the first meeting.

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

## AUDIT OFFICE

### Report

**The Deputy-Clerk** announced the receipt, pursuant to the Public Finance and Audit Act 1983, of a performance audit report of the Auditor-General entitled "Prisoner Rehabilitation: Department of Corrective Services", dated May 2006.

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

## BUSINESS OF THE HOUSE

### Postponement of Business

**Business of the House Notice of Motion No. 3 postponed on motion by Reverend the Hon. Dr Gordon Moyes.**

## SESSIONAL ORDERS

### Notices of Motions

**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) [11.21 a.m.]: I move:

That, during the present session and unless otherwise ordered, if a notice of motion remains on the *Notice Paper* for 30 sitting days without being moved, the President will announce that it will be removed from the notice paper on the next sitting day. A member may renew a notice of motion once only by providing written notification to the Clerk prior to its removal from the *Notice Paper*.

**The Hon. DON HARWIN** [11.21 a.m.]: The Opposition and crossbench members are surprised to see this motion on the notice paper today. The notice of motion was verbally given by the Minister yesterday. Nevertheless, in the usual cacophony of the first days after prorogation, it is not surprising that members missed it. All members of the House must understand that the Government proposes a significant change to the way motions on the notice paper are dealt with. The Opposition and an overwhelming preponderance of crossbench members oppose the changes. The Government proposes that after notice of motion is given, the motion will sit on the notice paper for 30 sitting days—which, surprisingly, under this Government is a reasonable amount of time.

**The Hon. Melinda Pavey:** Almost a year.

**The Hon. DON HARWIN:** Almost a year, as my colleague interjects. The motion then states that a member may restore the notice of motion once, presumably for a further 30 sitting days. If the motion has not been moved in that period it will drop off the notice paper completely. I note that one sitting day after prorogation, we already have 124 notices of motion on the notice paper. On a good private members' sitting day we may debate six or seven motions. Because of the number of days the Parliament sits each year, we will be unable to discharge many of the motions in the remaining private members' sitting days before the next election. In fact, there are fewer than 30 sitting days left until the end of this Parliament. Therefore, the proposed changes will not have any practical implication in the present session.

The Opposition opposes the motion as a matter of precedent because in the next Parliament—if we are unfortunate enough to have a Labor Government that sits only 48 days a year—effectively a notice of motion will sit on the notice paper for about 18 months and then drop off. The Opposition and crossbench members consider that the changes are not desirable. One of the features of the motion—that motions remain on the notice paper for 30 sitting days without being moved—would mean, almost certainly, that on every private members' sitting day members will stream into the Chamber and move contingent notices of motion to ensure that their matter outside the order of precedence is at least moved. Then we would adjourn and private members' day would be rendered a complete shemozzle. I have spoken to the crossbench representatives, but I will let them speak for themselves. On behalf of the Opposition I oppose the motion.

**Debate adjourned on motion by the Hon. Tony Kelly.**

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

### Second Reading

**The Hon. IAN MACDONALD** (Minister for Natural Resources, Minister for Primary Industries, and Minister for Mineral Resources) [11.26 a.m.]: I move:

That this bill be now read a second time.

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

**Leave granted.**

The Totalizator Legislation Amendment (Inter-jurisdictional Processing of Bets) Bill 2006 amends the Totalizator Act 1997 and the Unlawful Gambling Act 1998 to allow Tabcorp to integrate its New South Wales and Victorian wagering operations.

Tabcorp's integration process will lead to major capital investment in Western Sydney and create 300 new jobs. It will be of enormous benefit to the state's racing industry and the New South Wales economy.

The Government is continuing to work with Tabcorp and their investment in New South Wales will:

Establish a head office for Tabcorp's wagering businesses and associated management personnel … for both New South Wales and Victoria … in Ultimo, New South Wales.

Close Tabcorp's Box Hill call centre in Victoria and see the relocation of the Victorian telephone betting operation to Granville, New South Wales.

Create 300 additional jobs at the Call Centre in Granville, New South Wales.

Relocate the Victorian Sports Betting management from Victoria to New South Wales.

Integrate Tabcorp's fixed odds wagering systems with national TAB fixed odds race and sports betting managed from Ultimo, New South Wales.

Lead to synergy savings that will benefit the racing industry after integration has commenced.

Tabcorp's technical integration, that is, their back-of-office integration, will:

Create a common wagering system operating platform for both the New South Wales and Victorian TAB—providing New South Wales with state-of-the-art wagering software systems.

Share Tabcorp's betting systems, that is computer infrastructure, so that all bets received by Tabcorp can be processed in both New South Wales and Victoria.

Allow Tabcorp to process bets through their computers located in New South Wales.

For example this will now allow a punter betting on the Victorian tote in Victoria to have their bet processed by Tabcorp computers in New South Wales.

Create a far more cost-effective and efficient means of processing bets.

It is very important to understand that this integration proposal does not involve the merging of New South Wales totalisator pools with totalisator pools in other jurisdictions.

Under this integration proposal, New South Wales pools and SuperTAB pools will remain separate.

In December last year the Government decided, responsibly, not to approve of merged pools on the basis that there was no guarantee there would be a benefit to the racing industry and the people of New South Wales.

However, this issue is very much alive and the Government will continue to work with Tabcorp to ensure any change to tote pools will benefit the entire racing industry and the people of New South Wales.

By way of background:

In 1998 the New South Wales TAB was privatised, with licences for the conduct of both on-course and off-course totalisator betting in New South Wales issued to TAB Limited.

The totalisator licence is for a 99-year term. In the case of TAB Limited's off-course totalisator licence, it includes an exclusivity period of 15 years.

TAB Limited also holds an approval to conduct fixed odds betting in New South Wales on a limited number of racing events and prescribed sporting events.

By way of clarification I will outline the distinction between totalizator betting and fixed odds betting.

Totalizator betting involves money bet on a particular outcome in an event being placed in a common investment pool. Following the deduction of an amount as commission from the investment pool, the remaining dividend pool is divided among winning punters proportional to the amount bet.

In practice, this involves the declaration of a dividend payable for each $1 bet on the winning outcome.

Fixed odds betting is essentially a bookmaker type operation where a set price and a guaranteed return on successful bets is offered to punters. Unlike totalisator betting where a profit is assured, fixed odds betting involves a level of risk.

The profits from Tabcorp's New South Wales based wagering operations are shared between the New South Wales racing industry, the State Government in the form of betting tax, the Federal Government in the form of GST and the TAB.

In July 2004 TAB Limited was acquired by the Victorian-based company Tabcorp Holdings Limited and is now a wholly owned subsidiary of that company. Tabcorp holds a licence issued by the Victorian Government to conduct totalisator betting in that State.

Under its Victorian licence, Tabcorp operates a merged totalisator pool, known as SuperTAB, which combines investments from the TABs in Victoria, Western Australia, Tasmania and the Australian Capital Territory.

Tabcorp also holds Victorian Government approval to conduct fixed odds racing and fixed odds sports betting. Its Victorian-based fixed odds operation incorporates investments from all Australian jurisdictions apart from New South Wales.

In 2005 Tabcorp approached the Government with its plans for the technical integration of its wagering businesses in New South Wales and Victoria.

I will now refer to just some of the important detail regarding the key elements of Tabcorp's integration proposal.

The first is the establishment of the head office for Tabcorp's wagering businesses and associated management and personnel for both New South Wales and Victoria at Tabcorp's New South Wales base at Ultimo.

Tabcorp will replace the now ageing New South Wales betting computer systems and create common wagering system operating platforms for both the New South Wales and Victorian TABs.

This will provide New South Wales with a state-of-the-art wagering systems.

This Bill will allow Tabcorp will to locate separate totalisator wagering computer systems in New South Wales and Victoria.

Each system will be capable of operating the entire Tabcorp New South Wales and Victorian totalisator betting networks. At any one point in time, one system will be the primary host system processing all transactions for both States and the other will act as a back-up system in the event of a system failure.

The existing Melbourne and Sydney based computer centres, where computer equipment and technical staff are located, will be capable of supporting the combined wagering operations of New South Wales and Victoria, as well as the interstate totalisator and fixed odds betting functions.

The Account Sales Call Centre located at Box Hill in Victoria will be closed. The Call Centre at Granville in New South Wales will be expanded to service the combined Victorian and New South Wales customer base, supported by the Victorian Bowen Crescent call centre on weekends and public holidays.

As the Premier has outlined, this will create 300 new jobs for Western Sydney.

This bill also allows Tabcorp to relocate Victorian Sports Betting management to New South Wales.

The infrastructure to operate Tabcorp's New South Wales and Victorian Internet betting sites will be consolidated into one system located in New South Wales.

The integration project essentially involves a non-New South Wales licensed wagering operator, being the Victorian arm of Tabcorp, forwarding totalisator and fixed odds bets placed with it for processing by computers located in this State.

Similarly, bets placed through the New South Wales totalisator licensee, TAB Limited, may be processed through computers located in another jurisdiction.

Under existing legislation, betting on racing and sporting events may only be conducted in New South Wales by licensed bookmakers while fielding at licensed racecourses and by TAB Limited and race clubs as the holders of Totalisator Licenses issued under the Totalizator Act 1997.

While TAB Limited holds licences to conduct totalisator betting in New South Wales, its parent company Tabcorp does not. Accordingly, there is a need to amend the legislation to facilitate Tabcorp's wagering integration proposals.

The bill amends the Totalizator Act to make provision for a New South Wales totalisator licencee to process in New South Wales bets placed with authorised wagering operators in other jurisdictions on behalf of those other wagering operators.

It also provides for the processing of bets placed with a New South Wales totalisator licence by authorised wagering operators in other jurisdictions. These bets will remain subject to New South Wales legislative and regulatory provisions, including New South Wales betting tax.

It is important to understand that New South Wales bets processed in Victoria will still be subject to New South Wales betting tax.

Equally, Victorian bets processed in New South Wales will be exempt from New South Wales betting tax.

In addition, the bill extends the existing Trade Practices exemptions within the Totalizator Act so as to authorise, for the purposes of the Commonwealth Trade Practices Act 1974 and the Competition Code of New South Wales, the proposed new bet processing arrangements.

An amendment is also made to the Unlawful Gambling Act 1998 so as to make it clear that the processing of bets in accordance with the new arrangements is exempt from the prohibitions in that Act.

This integration process is not in conflict with New South Wales gambling laws. That is, it will allow the Victorian Tabcorp to process bets in New South Wales.

Responsibly, there are important safeguards within the proposed legislation to ensure that appropriate controls are maintained over Tabcorp's integrated wagering operations.

In the case of a New South Wales licencee processing bets on behalf of a wagering operator from another jurisdiction, the Minister for Gaming and Racing must approve of the wagering operator and the method by which the operator processes the bets, for example through a totalisator.

Similarly, in the case of a wagering operator from another jurisdiction processing bets on behalf of a New South Wales licencee, the Minister must firstly nominate the particular wagering operator.

This approval and nomination process is facilitated by the publication of appropriate notices in the *Government Gazette* and the Minister may revoke his authorisations at any time by a further gazettal notice.

The Minister for Gaming and Racing was also happy to answer questions raised by the Legislative Assembly Legislation Review Committee regarding the level of administrative power the Minister has to nominate and appoint approved persons.

To summarise the Minister's reply—it is consistent with the objects of the Unlawful Gambling Act, The Racing Administration Act and the Totalizator Act, and with existing provisions relating to the issuing of licences and authorities relating to the conduct of betting, that the Minister be given the broad power to approve of any non-New South Wales licensed wagering operator that will effectively be undertaking bet processing operations which are currently restricted to licensees under the Totalizator Act.

This will enable the Minister to ensure that any integrated bet processing arrangement does not conflict with the objects of New South Wales wagering legislation and importantly, is not detrimental to the interests of the New South Wales betting public and the New South Wales racing industry.

The Office of Liquor, Gaming and Racing regulates Tabcorp's betting operations in New South Wales through a comprehensive inspection program designed to respect and protect the interests of punters and ensure the New South Wales racing industry receives its fair share of revenue.

This rigorous inspection regime will continue under the proposed new integration arrangements, with the Office of Liquor, Gaming and Racing maintaining access to all records of betting transactions in the New South Wales totalisator and fixed odds systems, irrespective of whether bets are processed in New South Wales or another jurisdiction.

> The existing Automated Totalisator Monitoring System, whereby relevant data from the New South Wales totalisator betting system is recorded in a secure data storage "vault", will apply to the new integrated system.
>
> Bets placed with an approved wagering operator in another jurisdiction and processed in New South Wales will be subject to regulation by the appropriate authorities from the other jurisdiction.
>
> Responsibly, the integration of Tabcorp's wagering operations will not involve the redirection of TAB customers from one State to another, and the bill does not provide for an expansion of gambling opportunities for New South Wales residents.
>
> It will merely provide flexibility to Tabcorp to deliver a more cost-effective and efficient means of processing bets.
>
> Importantly, there will be significant economic benefits flowing to New South Wales as a result of this integration.
>
> Tabcorp has indicated that further synergy savings will be delivered to the New South Wales racing industry after integration has commenced.
>
> This legislation is evidence of the overwhelming confidence Tabcorp, a major Australian corporation, has in New South Wales.
>
> This confidence has lead to Tabcorp propose this major investment in New South Wales and the Government is moving forward with the necessary changes.
>
> The New South Wales economy will benefit from capital investment and the additional 300 jobs Tabcorp indicates will be created from the expansion of the Granville call centre.
>
> This bill allows this investment and job creation while maintaining important safeguards.
>
> I commend the bill to the House.

**The Hon. MELINDA PAVEY** [11.26 a.m.]: I lead for the Opposition on the Totalizator Legislation Amendment (Inter-jurisdictional Processing of Bets) Bill. The Opposition does not oppose the bill. However, questions put by the shadow Minister for Gaming and Racing in the other place remain unanswered and important issues raised by the Legislation Review Committee have not been addressed. As to the concerns that have been raised, which I will address in my speech, I call on Minister Macdonald to obtain the information from Government advisers and provide it to the House.

The Government has introduced the bill as a consequence of the takeover of the New South Wales-based TAB Limited by the Victorian-based Tabcorp Holdings Limited. The bill allows for a simple and sensible incorporation of wagering operations and processing. It carries over the two wagering licences that operated exclusively and serve to protect each State's turnover. That feature will remain, which is welcome. There is no harvesting of turnover of New South Wales or Victorian betting. Likewise, industry shares and State taxation remain unaltered. The bill will enable the processing of bets in both Victoria and New South Wales. As I have mentioned, the Legislation Review Committee has raised concerns in its report and suggested that the administrative powers are ill defined and too wide. The Legislation Review Committee report states:

> The bill allows the Minister unfettered discretion in deciding whether to approve or nominate a wagering operator. Also, the Minister may revoke authorisation at any time by notice in the *Gazette*.
>
> The bill does not specify criteria to which the Minister is to have regard in exercising this discretion. There is also no provision for review of the Minister's decision.

The report further states:

> While it was stated in the second reading speech that the bill is designed to allow for Tabcorp to integrate its New South Wales and Victorian wagering operations, the bill has the potential to affect other wagering operators.

The shadow Minister for Gaming and Racing has raised the concerns in a letter to the Minister for Gaming and Racing. As I said at the outset, I hope those concerns are addressed in the Government's reply. A positive impact of this bill is undoubtedly the change in administrative arrangements between New South Wales and Victoria TAB in respect of staffing, because 300 jobs have been created at a call centre to be located in Granville in Western Sydney. Many of those jobs have resulted from the decommissioning of similar jobs in Victoria. I am sure there are some cranky Victorians but, of course, some residents of New South Wales will be very happy.

It would be interesting to know whether the Government tried to have that call centre established in a regional centre. The State Development Committee, of which I am a member, has been conducting an inquiry into skills shortages and it has been made clear to the committee that country call centre operations have a much better staff retention rate compared to city call centres. That makes a lot of sense because jobs are not as easy to come by in regional areas as they are in the city. Given modern technology there is no reason that many call centre operators and other operators cannot operate on a more efficient basis in regional centres.

The quality of the country work force should also be considered. Employers in Sydney find it difficult to recruit reliable staff and have trouble retaining staff in the face of others trying to poach by offering better money. Good luck to the staff moving on to the higher paying jobs, but that situation creates management problems. Staff in regional areas also have a greater sense of loyalty. I would not be surprised if the Government did not even consider locating the call centre in regional New South Wales because it has complete disdain for the country. That will be one of the main focuses of a Debnam-Stoner government post March 2007, which is something we can all look forward to.

**The Hon. Ian Macdonald:** That's a step forward from the miserable situation—

**The Hon. MELINDA PAVEY:** It is a step forward for this State and the workers this Government has pulled out of regional New South Wales and relocated in Sydney. The Minister is a disgrace; he should not be the Minister. The Opposition will not oppose the bill. As I said, the shadow Minister—who will be the next Minister for Gaming and Racing in New South Wales—has raised some concerns. I look forward to the Minister's responding to them in his reply.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [11.33 a.m.]: The Totalizator Legislation Amendment (Inter-jurisdictional Processing of Bets) Bill simply recognises in law the fact that the Totalizator Agency Board [TAB] has been sold to Victoria. Because of the Constitution's provisions dealing with unobstructed trade and commerce between the States, the administration of gambling will be transferred to another jurisdiction. This government-organised entity was initially established for the good of the people of New South Wales and was then flogged off to the private sector before the election to win electoral and media favour. Having been privatised, the TAB has now been sold interstate.

Interestingly, Betfair, the British gambling organisation, has managed to get a foothold in one Australian jurisdiction, to wit Tasmania. The Constitution's insistence on free commerce between the States means that Betfair is here to stay. That effectively means Australian governments will no longer have control of betting in this country. If the Government wanted to reduce gambling it could legislate that debts incurred overseas by people in this jurisdiction need not be paid, or it could send some other strong message. However, the market is running gaming. Horseracing, which employs a large number of people in New South Wales and which is a game of skill or perhaps chance, has much higher overheads in that it involves real horses and real people unlike gambling on poker machines or the Internet, which requires only software to provide entertainment. Because these forms of gambling have lower input costs, the profits are likely to be greater and they are likely to out compete gambling that involves real people and real horses.

This bill is being passed as a matter of course. Now that Betfair has established itself in one jurisdiction it will spread. The Hon. Melinda Pavey asked whether country New South Wales was considered as a possible location for call centres or whether they will be placed at the cheapest location—perhaps in India. This means that the money syphoned off—that is the money lost by gamblers—will go to the most convenient location for the operator. In this case the operator is an interstate company, but it could be Betfair, which will move the money offshore, or an Internet company. A gambler could lose his house without ever leaving it! This is an escalation of gambling.

I recognise that opposing this bill could be unconstitutional in that it would amount to an attempt to stop the flow of money between Australian States. However, it is worth noting that gambling sucks money from the disadvantaged. The Productivity Commission had to deal with this matter euphemistically because a large percentage of gaming revenue is collected from people who cannot afford to lose it, and that causes immense difficulties. It is a general business principle—and, indeed, a personal management principle—that it is most efficient and cheaper to make decisions at the lowest point at which they are required. If a person makes very bad decisions, such as gambling away all of his money, and welfare groups have to provide assistance by looking after his children and wife, trying to find accommodation and dealing with the creditors, enormous problems emerge. There is a huge negative multiplier effect on families, fraud is committed to get money for gambling and so on. Anything that is pro-gambling increases the cost to the entire society.

This bill is another nail in the coffin of sensible financial planning. Governments see gambling and the associated taxes as an easy way to make money. That is the reason poker machines have become so widespread in this State. Of course, the Government has discovered that it cannot tax gambling on the Internet or gambling operations based in the Bahamas. The clubs and pubs have been involved in a struggle, which it would appear they are winning, to lower the taxes they must pay almost to the level paid by Internet gambling operators. Having introduced gambling in New South Wales as an easy cash cow—never mind the people whose lives are

ruined—the Government has now discovered that that source has dried up. This legislation is another milestone on that terrible road.

If this bill were rejected it would mean that the receipts of foreign gambling operations would have to be processed in this State. How that could be done if it involved a company that could do its business wherever it wished, and given that computers can be located anywhere because of the electronic linkages that are possible, I do not know. That is another example of how the Government will get less and less benefit from gambling and why the social harm being caused will continue. It is time this Government did something serious about gambling rather than allow people who have a weakness to be exploited.

**Reverend the Hon. Dr GORDON MOYES** [11.39 a.m.]: On behalf of the Christian Democratic Party I speak to the Totalizator Legislation Amendment (Inter-jurisdictional Processing of Bets) Bill. The object of the bill is to amend the Totalizator Act 1997 and the Unlawful Gambling Act 1998 to allow Tabcorp to integrate its New South Wales and Victorian wagering operations. In 1998 the New South Wales Totalizator Agency Board [TAB] was privatised, with licences for the conduct of both on-course and off-course totalisator betting in New South Wales issued to TAB Ltd. In July 2004 this entity was acquired by the Victorian-based company known as Tabcorp Holdings Ltd and it is now a wholly owned subsidiary of that company.

Under its Victorian licence, Tabcorp operates a merged totalisator pool, known as SuperTAB, which combines investments from the TABs in Victoria, Western Australia, Tasmania and the Australian Capital Territory. New South Wales has a distinct totalisator pool from SuperTAB. Under this bill, rather than bets being handled in two different jurisdictions—that is, in New South Wales and Victoria—by TAB Ltd, bets will be processed only in New South Wales. The palpable benefits of this arrangement are clear and, in fact, have been heralded by the Premier upon announcing the introduction of the bill.

Operational efficiencies will accrue from the amalgamation of Tabcorp's New South Wales and Victorian wagering businesses, setting lower overhead costs for Tabcorp's operations. Tabcorp's call centre will be based in Granville, in western Sydney, signifying around 300 jobs in that area. It is also said that the growth of the New South Wales racing industry and the New South Wales economy will ensue as a result of this bill—both of which I suspect are not true assessments. Tabcorp has assessed the annual financial benefits of the introduction of pooling to be $3.5 million in additional revenues for the New South Wales racing industry, $3 million for the State Government and $3.4 million for the New South Wales TAB. Of course, GST on transactions will be forwarded to the Federal Government. The profits from Tabcorp's New South Wales-based wagering operations are shared between the New South Wales racing industry, the State Government in the form of betting tax, and the Federal Government in the form of GST and the TAB.

Although I do not decry the benefits that will accrue from this amalgamation, it is of utmost importance to put them into perspective. According to the Australian National University's Centre for Gambling Research, in 2003-04 total expenditure in New South Wales was $6.57 billion, equivalent to more than 40 per cent of total gambling expenditure in Australia. In 2003-04 real per capita expenditure on gambling in New South Wales was $1,285, compared with $845 in 1993-94. This was the highest per capita expenditure of any Australian State or Territory, except the Northern Territory. Further, the increase in New South Wales gambling expenditure in the period 1993-94 to 2003-04 has resulted in government revenue from gambling in 2003-04 of $1.314 billion. Gambling is one of the most lucrative ventures for both Government and business enterprise, and I make no apologies for pointing out that fact.

Honourable members may know that I hold strongly to the position that the Government, through its pokies tax, should reconsider this revenue source. The overall tax burden should fall on both gamblers and non-gamblers. Obviously, however, because of the "cash cow" quality of this industry, this most likely will not happen. It is an unfortunate fact that this is a legacy that Premier Iemma's predecessor, Mr Carr, left for this State. On a separate point, as an advocate for social welfare and minister of religion, I do not condone the practice of gambling for the veritable financial, social and emotional traps that it contains for those who are vulnerable or susceptible to being trapped. Although it is true that it is up to individuals to make choices—in this case, to gamble or not to gamble—the inherent nature of this industry, with its lure and its attraction, ultimately drags problem gamblers into a mentality of almost automated gambling. Between 2 per cent and 3 per cent of Australia's population fall into this category, and 5 to 10 people are affected for every problem gambler. It is clear that there continues to be a problem that the Government must face, not just on an economic level but as a personal cost to society.

The second reading speech in the other place pointed out that "it is very important to understand that this integration proposal does not involve the merging of New South Wales totalisator pools with totalisator

pools in other jurisdictions". In fact, in December last year the Government decided not to approve of merged pools on the basis that there was no guarantee that there would be a benefit to the racing industry and the people of New South Wales. Effectively, the only changes facilitated by this bill are changes that will bring about operational efficiencies for New South Wales and Victorian wagering businesses. For the practical outworking of this bill, all bets will be processed through computers located in New South Wales. I certainly agree with the Hon. Melinda Pavey that if there is going to be a centralisation in a call centre, why not a regional centre somewhere in New South Wales where there are always plenty of people available to work in that particular industry? At any point in time, one system will be the primary host system processing all transactions for both States and the other will act as a back-up system in the event of a system failure.

The head office for management of Tabcorp's operation will be located in Ultimo, New South Wales, and Tabcorp's Box Hill call centre in Victoria will be closed down. Further, the Victorian Sports Betting Management will be relocated from Victoria to New South Wales. In spite of all those operational efficiencies, the Christian Democratic Party is still concerned about the social and personal costs to people when more money is available to New South Wales to promote gambling. Therefore the Christian Democratic Party cannot commend this bill to the House. Although the efficiencies are mainly operational, the New South Wales centralisation of gambling facilities in New South Wales will be increased. This, in turn, will enable greater promotion of all forms of gambling, and hence increase the social and personal costs to citizens and society in general. The Christian Democratic Party will not support the bill.

**The Hon. IAN MACDONALD** (Minister for Natural Resources, Minister for Primary Industries, and Minister for Mineral Resources) [11.45 a.m.], in reply: I thank honourable members for their contributions to the debate. The Totalizator Legislation Amendment (Inter-jurisdictional Processing of Bets) Bill amends the Totalizator Act 1997 and the Unlawful Gambling Act 1998 to allow the processing in New South Wales of bets placed with authorised wagering operators in other jurisdictions. It also provides for the processing in other jurisdictions, namely Victoria, of bets placed with a New South Wales totalisator licensee.

The synergy savings from an integrated process will lead to enormous benefits to country racing. The Minister for Gaming and Racing was pleased to answer questions raised by the Legislative Assembly Legislation Review Committee and members opposite regarding the level of administrative power the Minister has to nominate and appoint approved persons. The Hon. Melinda Pavey should be listening to this so she can relay advice back to her colleagues in relation to the question she asked. It is consistent with the objects of the Unlawful Gambling Act, the Racing Administration Act and the Totalizator Act, and with existing provisions relating to the issuing of licences and authorities relating to the conduct of betting, that the Minister be given the broad power to approve of any non-New South Wales licensed wagering operator that will effectively be undertaking bets processing operations that are currently restricted to licensees under the Totalizator Act. I am sure the Hon. Melinda Pavey will understand that precisely.

**The Hon. Melinda Pavey:** And you?

**The Hon. IAN MACDONALD:** I am not that arrogant. This will enable the Minister to ensure that any integrated bets processing arrangement does not conflict with the objects of New South Wales wagering legislation and, importantly, is not detrimental to the interests of the New South Wales betting public and the New South Wales racing industry—another point the Hon. Melinda Pavey raised in her contribution. In simple terms, which she will be able to understand, the legislation will give Tabcorp, the owner of TAB Ltd, the flexibility to deliver a more cost-effective and efficient betting operation through the consolidation of its New South Wales and Victorian wagering businesses. This bill, and Tabcorp's investment in New South Wales, is further proof that the Iemma Government is delivering the opportunities for strong, responsible business investment and employment growth for the people of New South Wales. I commend the bill to the House.

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

**The House divided.**

**Ayes, 27**

| | | |
|---|---|---|
| Mr Breen | Mr Gallacher | Mr Pearce |
| Mr Brown | Miss Gardiner | Ms Robertson |
| Ms Burnswoods | Mr Gay | Ms Sharpe |
| Mr Catanzariti | Ms Griffin | Mr Tsang |
| Mr Clarke | Mr Kelly | Mr West |
| Mr Colless | Mr Lynn | |
| Mr Costa | Mr Macdonald | |
| Ms Cusack | Mr Obeid | *Tellers,* |
| Mr Donnelly | Ms Parker | Mr Harwin |
| Ms Fazio | Mrs Pavey | Mr Primrose |

**Noes, 6**

Dr Chesterfield-Evans
Mr Cohen
Ms Hale
Reverend Dr Moyes
*Tellers,*
Reverend Nile
Ms Rhiannon

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## BUSINESS OF THE HOUSE

### Postponement of Business

**Government Business Order of the Day No. 2 postponed on motion by the Hon. Tony Kelly.**

## CONSTITUTION AMENDMENT (GOVERNOR) 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) [11.57 a.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 Government has been developing government continuity arrangements in the event of a serious terrorist incident or natural disaster.

As part of this work, consideration has been given to the constitutional and other legal limits that would apply to Executive Government decision-making in the event of a serious incident.

It has become clear that some of the provisions of the *Constitution Act* may not be effective in certain circumstances. For example, following a significant terrorist incident, the Governor may be prevented from reaching any place where the Executive Council needs to meet to respond to the crisis.

In some circumstances, the Governor may not be able to be found or contacted.

It might, however, be necessary for the Government to take steps to deal with the emergency, such as declaring a State of Emergency or making emergency regulations or orders. It might even be necessary to swear in new members of a Ministry.

The provisions of the *Constitution Act* only allow the Lieutenant-Governor, who is the Chief Justice of the Supreme Court, or the Administrator, who is the next most senior judge of the Supreme Court, to assume administration if the Governor is outside New South Wales or is "incapacitated".

The Crown Solicitor was asked to advise whether the term "incapacitated" would extend to situations in which the Governor was not physically or mentally incapacitated but was unavailable.

The Crown Solicitor advised that the term "incapacity" may not extend to situations beyond physical or mental incapacity.

It is possible, therefore, that a situation might arise where no person would be available to administer the Executive Government of New South Wales during a critical emergency period.

Such a situation could arise if the Governor was still in New South Wales but unable to exercise her functions due to reasons other than her physical or mental incapacity, for example, if she is uncontactable, missing or physically prevented from attending an urgent Executive Council meeting because of the cessation of elements of the communication or transport systems.

This is to be contrasted with the position in other jurisdictions.

In Victoria, the Administrator is entitled to assume administration merely if the Governor is "unable or unwilling" to perform his or her duties.

The Queensland Constitution is also probably more flexible than the present situation in New South Wales. In Queensland, the Administrator may take over when the Governor is "incapable of performing the duties of office."

To ensure the continuity of Executive Government in New South Wales in a crisis, the Government has decided to introduce amendments to the *Constitution Act*.

The Bill will amend the *Constitution Act* to allow the Lieutenant Governor or Administrator to assume administration whenever the Governor is "unavailable".

The amendments also provide consequentially that if the President of the Court of Appeal is unavailable to act as Administrator, the next most senior available judge of the Supreme Court is entitled to assume administration.

The amendments are only intended to be used in emergency or crisis situations, such as following a terrorist event where there may be significant transport and communication difficulties or casualties among the Executive Government.

The Bill is not intended to be used routinely in non-emergency situations, for example, where the Governor is temporarily away from the central business district of Sydney on official business and her future availability to attend routine Executive Council meetings can be presumed. In such cases, it is appropriate for the governance arrangements to remain unaltered despite any administrative inconvenience to the Government.

The Bill therefore includes checks on the exercise of the broader power to assume administration.

The first check is that it will remain a matter for any judicial officer approached by the Government to assume administration to be personally satisfied that the Governor is actually unavailable.

It is highly unlikely that any judicial officer would agree to assume administration if, for example, the only explanation given for the Governor's unavailability is that she is otherwise engaged in performing her official duties or it is after normal business hours.

Second, the Lieutenant-Governor or an Administrator will not be entitled to assume administration on "unavailability" grounds without the concurrence of the Premier or, if the Premier cannot be contacted, the next most senior Minister.

The third check is that the Premier or Minister concurring with the assumption of administration should only do so if he or she is satisfied that there are "*special circumstances*".

The Premier or Minister must also be satisfied that **either** it is not possible to determine if or when the Governor will become available again **or** it is necessary for the administration of the State that certain functions be exercised prior to the Governor's return.

This assessment about the needs of Executive Government is, ordinarily, best left to Ministers. The exception to this is in circumstances where neither the Premier nor any other Minister is contactable. In such cases, the judicial officer who is approached will be required to satisfy themselves as to the criteria which would otherwise be considered by the Premier or other Minister. This will ensure that the administration of the State does not pass to another person too readily.

The Bill will also amend the Act to ensure that the Lieutenant-Governor's or an Administrator's administration ends as soon as the Governor's unavailability ceases and she notifies the Administrator accordingly. A similar provision already exists in the Act in the case of the Governor's incapacity.

This will ensure that the Governor resumes administration of the State as soon as she is available to perform her duties again.

This Bill will ensure that the Executive Government of the State is able to continue to function in the exceptional circumstances which might arise following a natural disaster or terrorist event. It highlights this Government's preparedness to respond to such major incidents. Importantly, the Bill includes significant safeguards to ensure that it is only used in appropriate cases.

I commend the Bill to the House.

**The Hon. DON HARWIN** [11.57 a.m.]: I lead for the Opposition on the Constitution Amendment (Governor) Bill. Over the past five years terrorist attacks and natural disasters have resulted in our jurisdiction transforming our security procedures and reviewing our emergency protocols. As part of this process the New South Wales Government has sought advice from the Crown Solicitor regarding the operation of our current constitutional arrangements in the event of a major catastrophe. In the event that the Governor is incapacitated or absent from the State the Constitution allows for the Lieutenant-Governor or an administrator to assume administration of the government of the State.

While incapacity covers circumstances in which the Governor's physical or mental wellbeing is impaired, the Crown Solicitor advised the Government that incapacity does not extend to a situation in which the Governor is within New South Wales but is unable to exercise his or her functions due to reasons beyond physical or mental ill-health. It is important that the Constitution has the provisions necessary to allow it to continue to function during a major disaster. In the event of a catastrophic failure of communications, infrastructure and/or transportation systems, it is quite possible that the Government may be unable to locate or

contact the Governor even though he or she is within the State. Our Constitution needs to be flexible enough to accommodate such circumstances and this bill seeks to provide that flexibility. The bill seeks to amend the Constitution Act 1902 to provide for an assumption of administration of the Government of the State by the Lieutenant-Governor or the administrator when the Governor is unavailable to carry out his or her duties, rather than only when the Governor is incapacitated.

For the purposes of the bill, the term "unavailable" will cover the following contingencies: when the Governor has assumed the administration of the government of the Commonwealth, when the Governor is absent from the State, when the Governor has been physically or mentally incapacitated, and when the Governor is otherwise unavailable to exercise or perform his or her powers and functions. The Opposition has some reservations about whether the breadth of this definition of the term "unavailable" could allow for the provision to be applied in inappropriate circumstances.

While the Opposition would have liked more time to properly consider the full ramifications, the bill nevertheless contains restraints and safeguards that appear adequate and the Opposition will not oppose the passage of the legislation. According to the bill, the Lieutenant-Governor or administrator only assumes administration with the concurrence of the Premier or the most senior available Minister. This concurrence should only be granted if he or she is satisfied that there are special circumstances and it is not possible to determine if or when the Governor will become available again, or if it is necessary for the administration of the State that certain functions be exercised prior to the Governor's return.

**Pursuant to sessional orders business interrupted.**

## QUESTIONS WITHOUT NOTICE

---

### LEWIS CASS WHEELCHAIR REPLACEMENT

**The Hon. MICHAEL GALLACHER:** My question without notice is directed to the Minister for Health. Will the Minister inform the House who made the promise in March to replace Lewis Cass's 25-year-old wheelchair? The Minister said on Saturday, "As soon as the matter was drawn to our attention, we immediately arranged for the child to have the wheelchair ordered, and that's been done." Despite having made the original commitment in March and telling the family on the weekend that it had been ordered, why was the wheelchair only ordered on Monday this week? Why did the Minister blame the manufacturer for the delay in supplying this vitally needed chair when it was his department's fundamental failure, exacerbated by his misleading information, that has reduced this child's quality of life?

**The Hon. JOHN HATZISTERGOS:** First of all, I did not blame the manufacturer for anything. I made it quite clear that this was a very complex piece of equipment that needed to be specially designed and constructed to suit this young boy's needs. I have only two desires for young Lewis Cass. The first is that he recovers from what is a serious illness—and he is currently undergoing treatment at the Sydney Children's Hospital. My second desire is that he gets his custom-built chair as soon as possible. I will quote from a letter I received today from the Chief Executive of the Sydney Children's Hospital, Professor Les White:

> The hospital and the area health service initiated an order for the machine to be designed on 23 March. A series of home visits began from 27 March and then a complex process of testing individual component parts to create, from the ground up, a wheelchair specifically designed for Lewis's needs. Along the way we have needed to ensure that the individual component parts, chosen as most suitable by the clinical experts in consultation with Lewis and his family, were compatible and could synchronise to deliver the type of mobility we sought to achieve for this little boy.

In other words, from the outset in March there has been a continual process involving occupational therapists, the supplier's representatives in Sydney and a number of other professionals to design and construct a machine that would be compatible for this young boy, particularly in light of his very serious disability. I am advised that yesterday the health service yesterday made arrangements, because of the length of time it will take for this chair to be constructed, to obtain a temporary chair that he will be able to use, which I am advised will be better than the one he has had up until this point. That will only be provided for him in the short term. In the longer term, the specially designed chair will have an adjustable seat that has to come from the United States of America. Two manufacturers are involved in this project, the American manufacturer and the base manufacturer in Melbourne. I reiterate what I said. I have no agenda to deny this young boy his chair. I only hope that he recovers from his illness as soon as possible and that the chair will be provided to him so that his quality of life on his recovery will be improved.

## SPASTIC CENTRE OF NEW SOUTH WALES VOCALISE PROGRAM FUNDING

**The Hon. JAN BURNSWOODS:** My question is addressed to the Minister for Disability Services. Will the Minister update the House on what the Iemma Government is doing to help the Spastic Centre of New South Wales?

**The Hon. JOHN DELLA BOSCA:** The Iemma Government has a close and successful working relationship with non-government disability service providers in New South Wales. Just this month, the Iemma Government provided an extra $300,000 to enable the Spastic Centre of New South Wales to purchase communication devices for children with cerebral palsy. This funding will allow the Spastic Centre to build a communication technology loan pool with a wide range of speech-generating devices. They call this program Vocalise, and aptly so. The program will enable children with little or no speech to communicate. The Vocalise Program will support language development, learning and community participation. The communication devices range from single message machines through to more complex pictorial language systems with a vocabulary of more than 7,000 words. The devices use an electronic output that is either pre-recorded or generated by computer. The most famous person to utilise this kind of device would, of course, be Stephen Hawking.

The devices range in price from $4,500 to about $14,000, which is clearly outside the budget of most families. The Iemma Government funding for the Vocalise Program will give a voice to hundreds of children in New South Wales with little or no functional speech. The Vocalise Program is a great example of the Iemma Government working for the benefit of people with a disability, and their families and carers. Last year the Iemma Government provided the Spastic Centre with $300,000 to clear its waiting list for essential equipment for children under nine years of age, and only last month the Premier announced the allocation of an extra $2 million this year to clear the waiting list statewide for children under 16 years of age. This will provide about 800 children with appliances, including wheelchairs, pressure care mattresses and cushions, and mobility and shower aids, as well as maintenance and safety checks of the relevant equipment.

In just 10 months the Iemma Government has increased spending on this program by 27 per cent—a 27 per cent increase in just 10 months to purchase wheelchairs, mattresses and mobility aids. The 27 per cent increase takes our spending to $24 million this year. The need for aids and appliances for people with a disability has been increasing, and we have responded with real and practical assistance. On the other hand, what has the Opposition offered? Four-fifths of nothing! The shadow spokesman spends more on mobile phone calls to radio stations than he has pledged to spend on appliances for children. The Opposition has offered nothing. Under the stewardship of the member for Vaucluse, the Opposition has no plan to improve services for people with a disability. It resides in an ideas and policy vacuum, offering nothing but false hope.

Honourable members will recall the lead-up to the last election when the Opposition vowed to fund its policies by ripping $700 million out of community services. The Opposition cannot be trusted on the issue of community services or disability. We know that more needs to be done to improve disability services in New South Wales, and we are backing that up with real dollars, real commitment, real solutions and real plans. That is why I will soon be launching the Government's 10-year disability plan. People with a disability want action, not mobile phone calls to radio stations—and that is precisely what the Government is delivering and what will never be forthcoming from the Opposition.

## DIOXIN HEALTH EFFECTS

**The Hon. DUNCAN GAY:** My question is directed to the Minister for Health. Does the Minister agree with comments made by NSW Health in 2004 that a dioxin serum survey would be the most effective means of monitoring community exposure to contaminants during the remediation process at the former Allied Feeds and Union Carbide sites, because it would enable easy detection of any change in community blood dioxin levels? If the department was so concerned about dioxin levels two years ago, why did it fail to test Sydney Harbour commercial fishers for dioxins until media and Opposition pressure escalated? Was it because the Minister's department was more concerned about what the fishermen's agenda was, rather than having a genuine concern for the health of fishers and their families—as stated in a Department of Health email? Is the Minister planning on publicly releasing only a pooled or average result from the dioxin testing of fishers and their families, and if so how will that be accurate?

**The Hon. JOHN HATZISTERGOS:** The issue the honourable member refers to in his question invites me to express an opinion on a scientific matter raised by the Department of Health. I have said before that I have a wide variety of qualifications that permit me to comment on a wide variety of issues. However, I

must defer to the health experts; I am not in a position to provide a meaningful critique on their work, and I do not attempt to do so. The Department of Health has issued a number of media statements on this issue expressing the views of the Chief Health Officer, the Deputy Chief Health Officer, and other individuals. I refer the honourable member to those views. If he disagrees with them, it is his right in this democracy to express that position.

As to the testing for dioxins in fishermen, as honourable members would be aware from the media advice, that course was not recommended by the Deputy Chief Health Officer, and no member of the NSW Health staff has come to me supporting a recommendation to that effect. The decision to provide for that testing was done following community concerns raised in a television program, which resulted in a number of individuals having ongoing concerns about their health. The Government indicated that, notwithstanding the professional advice we received—we do not have reasons to disparage that advice in any way—

**The Hon. Duncan Gay:** So you would rather not test them.

**The Hon. JOHN HATZISTERGOS:** We respect their professionalism. We will provide for the testing of persons affected and their families. In addition to that, we have established an expert panel. I do not have the names of the panel members at the moment, but I understand they include two representatives from Queensland, one representative from the Commonwealth and one representative from New South Wales. It will be transparent, and they can provide whatever advice is appropriate. I will not be telling them what to say. I respect their own sense of professionalism to provide the Government with whatever advice they feel is appropriate.

## NUCLEAR POWER

**Mr IAN COHEN:** I direct my question without notice to the Treasurer, Minister for Infrastructure, and Minister for the Hunter. The Minister has been quoted in the *Sydney Morning Herald* as saying that he would like to see a picture of an Australian nuclear power plant among the photos of coal-fired power stations adorning his office. Does the Minister support the location of a nuclear power plant in Port Stephens, or in any other part of the Hunter?

**The Hon. MICHAEL COSTA:** Obviously I think it would be highly inappropriate to have a nuclear power plant in Port Stephens. But I make this point to my colleagues on the other side. It was the Prime Minister who raised nuclear power as a national issue of debate. I am happy to engage in debate. My artistic or photographic preferences are not an issue in terms of the policy debate.

**Mr IAN COHEN:** I ask a supplementary question. The Minister has said that he supports nuclear power plants. Will he support a nuclear power plant in his own backyard?

**The Hon. MICHAEL COSTA:** As honourable members are aware, my response to the original question was comprehensive.

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

**The Hon. MICHAEL COSTA:** Given that the Prime Minister has spent his overseas trip purporting to engage in a debate on nuclear power, I would be interested to hear what he has to say about nuclear power. I note that the Federal member for Paterson is out scaremongering in the Hunter. However, he has forgotten to tell people that his Prime Minister started this debate. It is incumbent on the Prime Minister to make some sort of representation on where he thinks a nuclear power plant should be located. I am surprised to hear the Greens' comments about people's backyards. We know that they are the prime masters at nimbyism.

## HEALTH SERVICES AND FEDERAL BUDGET

**The Hon. KAYEE GRIFFIN:** My question without notice is addressed to the Minister for Health. What is the latest information on the impact of the Federal Government's budget on health services in New South Wales?

**The Hon. JOHN HATZISTERGOS:** That is a good question. It is my duty to provide honourable members with information about the implications of the Commonwealth's budget for health services in New South Wales. While the Federal Government has no qualms about indulging in a $230 million advertising blitz,

some $52 million of which will be spent on promoting private health insurance, it seems indifferent to the fact that not one measly cent its massive billion dollars surplus will be directed to public hospitals. Indeed, the Federal Minister defended the splurge with this remark:

> Every person who is in private health insurance takes the pressure off the public system.

Unfortunately for the Federal health Minister, his credibility gap is on par with the gap being paid by those fortunate enough to have private health insurance. Perhaps he does not realise that a significant percentage of private health insurance holders still choose the public system. When one compares the estimated actual in the 2005-06 Federal budget papers and the 2006-07 budget papers, one sees that increasing expenditure is not linked to the provision of any additional health services; it is the result of increased premiums, enhanced rebates for older Australians and assumed projected growth in coverage. The fact is that, while expenditure continues to grow, results for the March quarter show that nationally overall private health insurance cover has remained static, and actually dropped slightly in New South Wales. So much for taking the pressure off our public hospitals!

If the Federal Government were serious about improving hospital services, it would give the States a fairer deal when it comes to health funding. Instead, it is squandering taxpayers' dollars on a massive advertising campaign to promote private health insurance. The $52 million it is spending on its campaign could make a real difference to front-line health services. However, instead of boosting surgical services, it will be spent on marketing; instead of planning for health care reform, it will be funding spin; and instead of investment in the health care workforce, it will be directed to improving the job security of the Federal Coalition Government. The amount of $52.1 million could buy more than 3,300 knee replacements, 3,400 hip replacements, some 14,500 cataract extractions or more than 2,200 heart bypasses, instead of buying the Federal Government a gratuitous advertising blitz. It is time the Opposition joined the Government in condemning this appalling waste of public money and in calling for a fairer deal for New South Wales public hospitals.

## SNOWY HYDRO LIMITED SALE

**Ms SYLVIA HALE:** I direct my question to the Minister for Finance. What assessment has the Government undertaken of the likely impact on the Snowy Hydro share price of its announced four-year 10 per cent share cap? Is it the Government's assessment that the initial share price, and therefore the return to the public, will be lower than if the restrictions were not in place? What measures will the Government put in place to stop the initial shareholders voting to remove the cap in four years time and make windfall profits by selling to a single overseas investor?

**The Hon. JOHN DELLA BOSCA:** I thank the honourable member for her good question; I will do my best to do it justice in my answer. The first point is that the honourable member is right in that there is a trade-off issue in relation to the way a company is offered for initial public offer and the way the future corporate governance of that company is arranged. As honourable members are clearly aware from the tone of the public debate over the past few months, the Snowy has many important characteristics but two of them are critical. The first is that it is a critical part of the national electricity infrastructure.

As I have said before in this place, in order to grow and find its place, and continue to play its role as part of the national electricity infrastructure, it needs to draw new capital. Its debt levels are in the range of what is responsible for a similar corporation. Therefore, the only way it can raise further capital is from its shareholders. All three shareholders—in particular, New South Wales, and we have no embarrassment about that—have indicated that they are not prepared to provide further growth capital for the Snowy. That is because, in the case of New South Wales taxpayer-funded capital, it would mean that we would be putting electricity on the ground in Victoria, south-east Queensland and in other parts of the country.

For that obvious reason, which I have mentioned on a number of occasions, the New South Wales Government would not be prepared, and has made it clear to the Snowy, to put more taxpayer-funded capital into Snowy's growth. That is not a criticism of Snowy. It is the right thing for Snowy to continue to grow outside the boundaries of New South Wales. If members opposite follow the debate—maybe the Deputy Leader of the Opposition does, as he is the relevant shadow Minister—they will be aware that the national electricity market is a reality. The regulatory functions that once resided in the State administrations are being phased into the Commonwealth. So, in intent and in reality—and very shortly in complete technical reality—the national electricity market and all the characteristics of that market will be a reality. For that reason, and for that reason alone, the Government has decided that the Snowy asset will be sold.

We have also taken into consideration, along with the Commonwealth and Victoria, that Snowy is an important asset and it has iconic status. The people of New South Wales, Victoria and the Commonwealth want to make sure the balance is right between Snowy's future as a business and its continued iconic status, and the protection of all investors, including foreign ownership and other issues.

The Deputy Leader of the Opposition is well aware of the publicly canvassed debate about share value and issues in relation to caps and protections. The same could be said of foreign ownership restrictions, which are part of the Federal regulatory framework. They all have an influence on the value of shares traded on the stock exchange. But for a government that has decided to sell its shares in an asset with the significance of Snowy—both the economic and the emotional significance—there is an important question of balance. The Commonwealth Government and the Victorian Government have taken the view that we have the balance about right. All three governments have agreed to further discuss with the stock exchange any additional protections that might be needed to make sure that people have that level of comfort. [*Time expired.*]

**Ms SYLVIA HALE:** I ask a supplementary question. What is the Minister's expectation as to when the outcome of the further discussions about additional safeguards will be made public?

**The Hon. JOHN DELLA BOSCA:** I was about to indicate to the House, when the time expired in my original answer, that those discussions were ongoing as of this week and, indeed, today. Obviously, they will be made public when there is something to announce publicly.

## PUBLIC-PRIVATE INFRASTRUCTURE PROJECTS

**The Hon. GREG PEARCE:** I direct my question to the Treasurer, Minister for Infrastructure, and Minister for the Hunter. Partnerships Victoria and the New South Wales Working with Government guidelines for privately funded infrastructure projects came into force at much the same time in 2001 and are procedurally reasonably consistent with each other. How does the Minister account for the fact that the Victorian Government has contracted 50 per cent more infrastructure projects under Partnerships Victoria in the past five years than New South Wales has contracted under the New South Wales Working with Government guidelines? What steps has the Minister taken to increase the number and mix of projects approved under the New South Wales Working with Government guidelines, and has he sought advice from his counterparts in Victoria about how we could improve our relative performance in this area?

**The Hon. MICHAEL COSTA:** I do not intend to debate the question but I will in my answer point out some of the illogical statements in the proposition. It is clear that public-private partnerships and the involvement of the private sector in the provision of products used in government services are important parts of any modern management of government. The honourable member's question seems to lack an understanding of how modern governments use the private sector. We on this side of the House take the view—

[*Interruption*]

The honourable member probably needs a fax to understand what I am saying, and I may send him one.

**The Hon. Greg Pearce:** Point of order: My point of order is relevance. I do not know what the Minister is talking about with faxes to members, and so on. He has obviously struggled for a long time. I wanted to give him a moment to gather some thoughts and to try to answer the question.

**The PRESIDENT:** Order! I had difficulty hearing the point of order raised by the Hon. Greg Pearce, but from what I could hear no point of order is involved.

**The Hon. MICHAEL COSTA:** Public-private partnerships are important parts of the process of managing public resources, but they have to be used strategically. They have to be used where they make sense and they have to be used in a way that delivers real results for the Government. I am surprised that the honourable Dennis Denuto would make the proposition that we should somehow get into a macro bidding war on public-private partnerships. I have never heard anything so absurd. Clearly, we use public-private partnerships as part of a strategy to ensure that we get results for the State. That means using a case-by-case analysis, not some macro scorecard.

In this State, we have used public-private partnerships very effectively; we have led the way on public-private partnerships. I remind the Opposition that we learned a lot from one of the first public-private

partnerships in this State. That was called the airport rail link, for which the Government is still paying $800 million to get out of the mess caused by members opposite in putting that public-private partnership together. We have learned from the Opposition's mess, and all the public-private partnerships that we go into now make sure that the risk is transferred to the private sector.

**The Hon. Duncan Gay:** Like the cross city tunnel.

**The Hon. MICHAEL COSTA:** Yes, I acknowledge the interjection from the honourable member, precisely like the cross-city tunnel. Even with a public-private partnership like the cross city tunnel, taxpayers are in a position where their interest is protected. It is protected, because if the tunnel does not work, the cross city tunnel consortium gets itself into difficulty. [*Time expired.*]

## PACIFIC HIGHWAY UPGRADE

**The Hon. PENNY SHARPE:** My question is addressed to the Minister for Roads. Will the Minister update the House on the upgrade of the Pacific Highway and related matters?

**The Hon. ERIC ROOZENDAAL:** I commend the Hon. Penny Sharpe for her interest in this matter, and for the great job she is doing as a member of this place. The Pacific Highway upgrade is the single largest construction program in New South Wales for the past 40 years. Some people may lose sight of this fact. Today, 233 kilometres of highway is double lane divided—in other words, has a dual carriageway. A further 302 kilometres of new highway is under construction, or has been approved for construction, or has a preferred upgrade route identified. The program has brought enormous improvements to road conditions and travel times. The New South Wales Government has invested millions of dollars in upgrading the Pacific Highway, in projects that have made an enormous difference to the New South Wales economy, North Coast communities and road users in this State.

New South Wales has contributed $1.6 billion, or 73 per cent, to the 10-year, $2.2 billion Pacific Highway upgrade program. The Federal Government has contributed only $600 million over the same period. As well as boosting tourism and transport efficiency and providing safer and more consistent overtaking opportunities, the Pacific Highway upgrade has saved lives and reduced the incidence of serious injury accidents. In August 2002 the jointly funded $348 million, 28 kilometre Yelgun to Chinderah freeway was opened—four months ahead of schedule. This impressive four-lane freeway reduces the Pacific Highway by just over 14 kilometres and shaves up to 25 minutes off the average journey from Yelgun to Chinderah. The time it previously took to make this journey has been halved.

**The PRESIDENT:** Order! I call the Hon. Catherine Cusack to order.

**The Hon. ERIC ROOZENDAAL:** A condition of approval for the Yelgun to Chinderah project was the jointly funded $8 million Cudgera Creek Road upgrade. I am pleased to inform the House that that upgrade was officially opened on 12 May. Cudgera Creek Road is an important link from the Pacific Highway interchange to Pottsville and will help manage traffic in the region. The two kilometre upgrade involved reconstructing and widening Cudgera Creek Road to an 80 kilometres per hour design standard. The upgrade will improve safety and travelling conditions for motorists. A bridge was built over the Cudgera Creek and the roadway approaching the bridge was reconstructed as part of the project.

[*Interruption*]

Is that Constable Fax interjecting?

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

**The Hon. ERIC ROOZENDAAL:** I am interested in Constable Fax's comments. Only yesterday one of his colleagues told me he is one of the senior Liberal members whom Kerry Chikarovski quoted in her book as having gone to her with evidence on John Brogden. I would like to hear him deny that in the House.

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

**The Hon. Michael Gallacher:** The Minister had his chance this morning. He has the heart the size of a split pea.

**The Hon. ERIC ROOZENDAAL:** Captain Fax is snapping back.

[*Interruption*]

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

**The Hon. ERIC ROOZENDAAL:** He was the one who took the fax to Kerry Chikarovski, not me. The Hon. Catherine Cusack should have a go at him for the way he conducted himself. In the past, the narrow width of the old Cudgera Creek bridge and road caused many problems for heavy vehicles passing in opposite directions. The new bridge over Cudgera Creek will provide a safer crossing for motorists. The conditions of approval required that the Cudgera Creek upgrade be finished within five years of the project opening. The upgrade has been finished well ahead of schedule, which is a credit to the hard-working project team and demonstrates the Government's ongoing commitment to the region.

## STUDENTS STRIKE

**Reverend the Hon. Dr GORDON MOYES:** I ask a question without notice of the Minister for Health, representing the Minister for Education and Training. Is the Minister aware that some trade unions and socialist organisations are organising a high school students strike to protest the Federal Government's industrial relations changes by encouraging them to not attend school on 1 and 28 June? Given that high school students are not given the right to strike and are required under section 22 of the Education Act to attend school whenever instruction or activities are provided, what is the Minister's position on the intention of so many students to not attend school? What will the Minister do to ensure the attendance of students at school?

**The Hon. JOHN HATZISTERGOS:** I will refer the question to the Minister for Education and Training.

## JUVENILE JUSTICE CENTRES FUNDING

**The Hon. CATHERINE CUSACK:** My question without notice is directed to the Minister for Juvenile Justice. Given that the Juvenile Justice detention centre program is funded for 326 beds but at times has been accommodating over 350 detainees, what additional funding has been provided to detention centres? Is the additional money provided by Treasury or is it found from within the department's existing resources? Are there any plans to expand the capacity of the system above the 326 beds that are funded in this year's budget?

**The Hon. TONY KELLY:** I am not sure whether I should answer the question or let the Treasurer answer it. The money comes from Treasury—out of the budget. The department has very limited ability to generate money. Any funding for the Department of Juvenile Justice comes from the budget. I understand that currently the department has a number of vacant beds in the system, including the 15 I opened only last week.

## JUVENILE JUSTICE CENTRES SECURITY AND SAFETY

**The Hon. AMANDA FAZIO:** My question without notice is addressed to the Minister for Juvenile Justice. Will the Minister provide information on the progress that has been made to strengthen security and safety in Juvenile Justice detention centres?

**The Hon. TONY KELLY:** I commend the Hon. Amanda Fazio for her continuing interest in Juvenile Justice. I am pleased to advise the House that the Government is introducing a set of far-reaching reforms to the management of juvenile detention centres. The changes will toughen discipline and improve security. Most importantly, they will ensure the security and safety of staff and detainees. Following the introduction of these changes, front-line staff in detention centres will have the most comprehensive set of powers to deal safely with violent and disruptive misbehaviour. This is the most far-reaching reform since the department was formed in 1993. It is all about ensuring that detainees respect the rules and understand that they must take responsibility for their actions.

The new measures include doubling the maximum period of time a detainee 16 years and older can be held in confinement as punishment for misbehaviour from 12 hours to 24 hours and for detainees 15 years and younger increasing the maximum confinement period from 3 hours to 12 hours. Confinement is used in detention centres as punishment for misbehaviour. Acts of misbehaviour include but are not limited to subversive behaviour, abusive, indecent or threatening language, possession of unauthorised articles, refusal to work or participate in activities, and deliberate harassment or provocation.

The package removes the three-hour time limit that a detainee who exhibits extreme challenging or dangerous behaviour can be segregated as a safety measure. It includes new provisions to fast-track the transfer of detainees 18 years of age or older to adult gaols for administrative or operational reasons through the creation of a new juvenile parole board as part of the Children's Court. It widens the powers to search visitors to centres and staff for drugs and other illegal items that might fall into the hands of detainees and to act on any evidence found, including banning visitors caught with contraband. It also includes powers to test staff members for drugs and alcohol. The legislative package will strengthen the department's existing program that monitors detainee telephone calls and drug and alcohol tests detainees.

I am also pleased to advise that I will make an announcement shortly on an important agreement that has been reached between the Commissioner for Children and Young People and the Director-General of the Department of Juvenile Justice. The Iemma Government has introduced a detailed package of sensible measures to strengthen discipline and improve security in juvenile justice. I contrast the Government's initiatives with the inaction of the Opposition, which after three years has not yet released any detailed policy on Juvenile Justice. Rather, the Opposition believes it can get away with attacking the hard-working staff of the department in a cheap attempt to score political points.

## WATER LICENCE ALLOCATIONS

**Reverend the Hon. FRED NILE:** I ask the Minister for Primary Industries a question without notice. Is it a fact that water licence allocations have been reduced from 67 per cent for certain farmers in the Bourke western region, even though water is essential liquid gold for these farmers? Is it a fact that after an adjustment of water cuts from 67 per cent to 50 per cent, certain farmers face a financial crisis as the banks foreclose on their loans and force a fire sale of their properties because they are no longer viable? Will the Minister urgently suspend the cuts to their water allocations and review the economic and social impact of these draconian water cuts?

**The Hon. IAN MACDONALD:** The background to this issue is the decision taken by the Murray-Darling Ministerial Council some time ago in conjunction with the Commonwealth and the States to impose a cap based on the equivalent of 1993-94 levels of development.

**The Hon. Rick Colless:** Subject to further research.

**The Hon. IAN MACDONALD:** I will get to that in a second. After considerable consultation with stakeholders in the region, I recently announced that although the Government provisionally accepted the cap of 173 gigalitres a year it would conduct a research project using more modern metering equipment to calibrate the exact historical water usage in the Barwon-Darling system. That calibration will take a couple of years. Honourable members must remember the other underlying problem that the State is facing—that is, we are experiencing a one-in-100-year drought and there is very little water.

**The Hon. Duncan Gay:** You have finally discovered the drought!

**The Hon. IAN MACDONALD:** I will deal with that in a second. Back of Bourke Fruits ceased operation earlier this year. At the time it put an argument similar to that put by the honourable member about the general impact in the area. In fact, when one looks at the history of water use by Back of Bourke Fruits during the drought one finds that the Department of Natural Resources made several allocations to endeavour to help the company survive. The extent of the drought in that region has placed financial pressures on that company.

The Government has an agreement with the stakeholders that it will conduct the research project to calibrate their equipment and establish an accurate history of use, and it will then make a final decision. I make it very clear that the cap issue could create potential for conflict with other agencies. Each time I have gone to the MDBC as the lead Minister for New South Wales, all other Ministers of the States and the Commonwealth have raised the cap issue and asked what we are doing. They believe we have a duty to impose the cap at 173 gigalitres for that area. It is clear, regardless of whether it is the Commonwealth Government or the State governments, that they believe there should be a cap. This Government believes that following the calibration of the old equipment, and using more modern and accurate equipment, we will be able to set a cap that reflects the amount of water being used in the area.

**The Hon. Rick Colless:** What are you going to do for the class-A users?

**The Hon. IAN MACDONALD:** The stakeholders put the view that it would be higher. This research will give us an accurate calibration of the figures and we will be able to work on it. The cap is being driven at a national level as part of the overall determination to get the river back into balance.

## DEPARTMENT OF CORRECTIVE SERVICES AND APPOINTMENT OF JOHN GILMORE

**The Hon. CHARLIE LYNN:** I direct my question to the Minister for Juvenile Justice. Was John Gilmore, the chief of staff to the previous Minister for Justice, appointed to a position within the Department of Corrective Services? Was that position publicly advertised and were selection interviews held with more than one applicant, or was he simply given a job because the former Minister no longer had a position for him? Is the Minister satisfied that the appointment was appropriately handled?

**The Hon. TONY KELLY:** I understand that John Gilmore was a very capable chief of staff to the previous Minister. He then moved on to become the chief of staff to the Minister for Health. Any employment relationship between the commissioner and members of his staff is entirely their business.

## OFFICE OF INDUSTRIAL RELATIONS RETRIEVAL OF UNPAID WAGES

**The Hon. HENRY TSANG:** I direct my question to the Minister for Industrial Relations. Can the Minister advise the House on what the Iemma Government is doing to recover unpaid wages for New South Wales workers?

**The Hon. JOHN DELLA BOSCA:** Despite the Commonwealth Government's efforts to undermine the New South Wales industrial relations system, the Iemma Government is continuing to strive for fairer and more productive workplaces for employers and employees in this State. The New South Wales Office of Industrial Relations is conducting regular visits to workplaces to provide information and advice about employer and employee rights and obligations under this State's industrial laws. So far this financial year the office has conducted 12,500 targeted workplace inspections and 2,500 complaint-based investigations. During that time 3,400 employers have been caught breaching New South Wales industrial relations provisions, and 1,200 were found to be underpaying staff. A total of $2.3 million in back pay for New South Wales workers has been retrieved by the Iemma Government so far this financial year, and more than $33 million has been retrieved since 1996.

The effectiveness of the New South Wales industrial relations system, based as it is on a culture of education and co-operation, is in stark contrast to the Commonwealth's system. Each year the Commonwealth receives about 5,000 complaints from workers who have been short-changed, yet last year it prosecuted a total of seven employers for illegal behaviour. That is seven prosecutions across the nation. Under the new WorkChoices laws, with no umpire and no protection, it is clear that the law of the jungle will apply and that workers stand to be further exploited.

The Howard Government has promised to appoint 200 industrial relations inspectors to cover the entire nation, involving about 1.2 million businesses in all, including 465,000 in New South Wales. The inspectors will be powerless to assist because employers can sack their employees if they do not like them, or indeed for no reason at all. Instead of strengthening the powers of the inspectorate, the Commonwealth Government has been throwing money at empty initiatives to give the illusion of wanting to fix the problem. The Howard Government has announced the Unfair Termination Assistance Scheme, which will serve only to support a new legal industry, to create more red tape and to line the pockets of lawyers, who will give preliminary advice on whether a sacked worker has a valid claim.

The Commonwealth Government has also established a piggybank to provide up to $4,000 for every employee who feels that he or she has been unfairly sacked. However, conservative estimates indicate that the cost of running an unfair termination case in the Federal Court or any of its subsidiaries is upwards of $30,000. In addition, the legal practitioner who provides that legal advice is not allowed to progress the matter on the worker's behalf. I will repeat that point to emphasise its absurdity. The legal practitioner who provides the legal advice cannot follow through with the matter. Who would seek legal advice and then not engage the practitioner who provided the advice to prosecute the case? This is all about a phoney scheme that provides no real assistance. It is simply the creation of a new industry and it will bind businesses with even more red tape because the Commonwealth Government has not legislated effective protection.

An aggrieved worker must then engage a second professional if he or she wants to pursue the matter further, but without any additional funding from the Commonwealth. The Howard Government is saying that it

will let workers seek legal advice and find out how poorly they have been treated, but it is up to them to fund any further action against unscrupulous employers, regardless of the merit of the claim. The Commonwealth Government should stop wasting taxpayers' money on frivolous schemes and instead spend it on establishing a strong and effective inspectorate, like the one established in New South Wales, to build fairer and more productive workplaces. The implementation of WorkChoices has been a disaster from the outset, and the latest two initiatives show it is only getting worse for both employers and employees. We need to protect workers, their families and small business owners, who will all suffer if this unconstitutional law is allowed to stand.

## CENTENNIAL COAL ANVIL HILL MINE APPLICATION

**Ms LEE RHIANNON:** I direct my question to the Minister for Mineral Resources. Is the Minister aware that Centennial Coal is offering residents near the proposed Anvil Hill coalmine $25,000 in exchange for not only agreeing to make no objections or complaints to any authority about the project but also for agreeing to do anything that Centennial Coal asks of them to support the mine? Is he aware that this could extend to residents being contractually obliged to attend public meetings or to sign petitions in support of the controversial mine? Does he support this crude attempt to buy the support of local residents? What does Centennial Coal have to hide that it is prepared to go to such expense to stifle dissent?

**The Hon. Michael Costa:** I'll sign up if you can organise it.

**The Hon. IAN MACDONALD:** The Treasurer is always interested in extra finance, so he is prepared to sign up. However, I think the mine is a long way from his property. I am not aware of this program of good citizenship being undertaken by Centennial Coal for the residents near the proposed Anvil Hill mine. The issue is currently before the Minister for Planning, because he is responsible for planning issues and for approving the potential go-ahead of the mine.

In regard to community relations, I do not think there are any guidelines as to how companies and other organisations can approach these issues. I cannot see anything that is unlawful or particularly wrong about what the company is doing. In fact, I am not aware of what it is doing, but if it wants to enter into some arrangements with local landholders, that is its business. If the honourable member thinks there are some other connotations, there are appropriate bodies she can refer the matter to. At this stage the mine is in the development approval stage and is before the Minister for Planning.

**Ms LEE RHIANNON:** I ask the Minister a supplementary question. Does that mean the Minister supports coal companies using money to buy silence? I show the Minister a copy of the contract. That is that it says, and there is provision for the Minister to sign.

**The Hon. IAN MACDONALD:** I will not enter into debate and give an opinion about the situation between landholders and proponents of the mine. It is a matter for them to work out. I will not enter into debate on the matter and make a judgment on it. They are issues for those involved to determine.

## DUBBO AMBULANCE SERVICE

**The Hon. RICK COLLESS:** My question without notice is directed to the Minister for Health. Were ambulance officers from Nyngan unable to respond to two 000 calls last week because they were transferring non-urgent patients to Dubbo Base Hospital? What action will the Minister take to ensure that never happens again? When will the Government provide the funding to build the long-awaited ambulance station at Dubbo?

**The Hon. JOHN HATZISTERGOS:** There are some 25 million patient interactions every year in NSW Health and I do not profess to have knowledge of each individual interaction or to know the details of individual ambulance movements. What I do know, however, is that members of Parliament are provided with generous postage allowances for letterheads and stamps, which enable them to write letters about these sorts of issues and to have questions of this specificity responded to. I invite the honourable member to write to me in regard to those questions and I will provide him with an answer. I do not profess to have knowledge of every 000 call that is made in New South Wales, let alone know what movements ambulances take. I do know, however, that we have a record expenditure in ambulance services, which has increased by some $30 million, or 12.7 per cent, over the past year.

**The Hon. Rick Colless:** But they are transferring non-urgent patients all the time. They cannot get patients to the hospital.

**The Hon. JOHN HATZISTERGOS:** Less so.

**The Hon. Rick Colless:** The same is happening in Warren.

**The Hon. JOHN HATZISTERGOS:** I am happy to take up that issue and examine it, if the honourable member wants to raise it in the manner I have suggested. We have been attempting to use other forms of transport to facilitate patient movements. Sometimes, of course, there are members of the public who specifically want ambulances to transport them. Sometimes their physical condition is such that although non-urgent, because they have to be on a stretcher, the only way to transport them is by ambulance. So a variety of different circumstances may dictate why an ambulance may be required. If the honourable member wants to give me the information he has in writing, I will be happy to look into it. With regard to the 000 service, the Government is examining ways of not allowing its use to arrange non-emergency transportation; for example, we are currently evolving and exploring the use of the Internet for this purpose. I will make further announcements about that in due course.

## DROUGHT SUPPORT PROGRAMS

**The Hon. TONY CATANZARITI:** My question is directed to the Minister for Primary Industries. Given yesterday's announcement of a $5.5 million package to support drought-affected farmers in New South Wales, what additional steps can the Government take to help farming families cope with the dry conditions?

**The Hon. IAN MACDONALD:** Yesterday, the State Government again demonstrated its ongoing and very real commitment to drought-affected farmers, with a $5.5 million package to expand and extend key support measures. In February the New South Wales Labor Government announced nearly $14 million in additional funding to support its ongoing commitment to programs such as the Emergency Household Relief Program and rural financial counsellors. That extra $14 million will also help New South Wales meet its commitment towards the Commonwealth's exceptional circumstances [EC] business support program. These additional commitments are on top of the more than $200 million that has already been spent to support our farmers over the past four years.

These steps clearly demonstrate the State Government's proactive approach in helping our regional and rural communities, an approach the Federal Government clearly lacks. Here we are with conditions across the eastern States again deteriorating and the only drought measure referenced in the recent Federal budget was the Rural Financial Counsellors Program and funding of $9 million to cover the entire country. The Federal budget contained no vision for drought policies in the future and no mention of additional exceptional circumstances funding—the Federal Government's one key drought measure.

Yet right now more than 20 areas of New South Wales are facing the termination of their EC provisions in the coming months. These areas include Braidwood, Cooma, Bombala, the Australian Capital Territory, Goulburn, Yass, Forbes, Molong and the Central Tablelands. It will also affect parts of the Western Division, Nyngan, Condobolin, Narrandera, Hay and broadacre and stonefruit producers in Young. Producers in the Riverina and eastern Riverina, the south-west slopes and planes, Armidale, northern New England, Dubbo, Walgett, Coonamble and Mudgee-Merriwa are also waiting for word on the status of their EC support. For several of these areas EC income and business support is due to cease at the end of June, just one month from now.

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

**The Hon. IAN MACDONALD:** So here we are again with thousands of farmers across the State waiting for a critical decision by the Federal Government. Yet, members opposite, including the Deputy Leader of the Opposition, have the gall to criticise yesterday's announcement of additional support from the New South Wales Labor Government. The Deputy Leader of the Opposition told 2UE radio that New South Wales had contributed only one-fifth of what the Federal Government had spent on drought. Again, he gets it wrong. Maybe I need to remind the honourable member of a few key facts. First, there is a well-known and longstanding agreement that the Commonwealth is to take the lead on providing drought support while the States take the lead on natural disaster relief. Yet, time and again, it is the State Government out there on the front foot announcing extra support and extending its programs.

Second, while the Commonwealth previously said it would commit $1.25 billion to drought relief, in reality it has spent only about half that amount. The Deputy Leader of the Opposition is talking about State

funding whereas Commonwealth funding for the whole of the country is only 3½ times what this Labor Government has already spent. All the while the Commonwealth sits on a massive budget surplus—billions and billions of dollars. Rather than criticise the New South Wales Labor Government for its proactive and compassionate approach to the drought, perhaps the Opposition should be fighting to get EC provisions rolled over.

How many news releases has the Deputy Leader of the Opposition and his National Party colleagues put out calling for the rollover of EC provisions in New South Wales? I have been searching the record and cannot find any new release in which he says, "Look, Mr Costello, roll over these areas so they can get their EC income support." Rather than criticise the State Government for spending further on drought relief measures, the Deputy Leader of the Opposition should convince his Federal colleagues to spend more in this regard.

## PHOTOGRAPHIC FIREARM LICENCES

**The Hon. ROBERT BROWN:** My question without notice is addressed to the Minister for Roads, representing the Minister for Police. How much does the Roads and Traffic Authority [RTA] charge for a photographic firearm licence? Is the Minister aware of any proposal by the RTA to increase this amount? If there is such a proposal, by how much does the RTA propose to raise the charge for processing a photographic firearm licence? If this proposal succeeds, will the Minister give an assurance that the extra charge can be absorbed within the present overall firearm licence fee, or does he propose to increase the firearm licence fee to cover any extra RTA processing charge?

**The Hon. ERIC ROOZENDAAL:** I welcome that question. I must say that the new member is fitting well into the role. I saw John Tingle yesterday and he is looking well; he has lost 3½ kilograms since leaving Parliament. I wish him well. This is a good question, but I am advised that it is a matter for the Minister for Police. Fees for photographic firearm licences are set by NSW Police and are available on the NSW Police web site. NSW Police is responsible for policy and administrative matters in relation to firearms, including the setting of fees. The Roads and Traffic Authority issues these licences as it has the facilities and infrastructure to provide photo identification and collects the fees on behalf of NSW Police.

## PORT STEPHENS GREAT LAKES MARINE PARK ADVISORY COMMITTEE

**The Hon. ROBYN PARKER:** My question without notice is directed to the Minister for Primary Industries. What was the exact role of the Port Stephens Great Lakes Marine Park Advisory Committee? What input did the committee have with regard to establishing the draft boundaries of the marine park? What assurances can the Minister provide anyone making a submission to the current community consultation process that their input will be even heard by the Government, given that on Monday this week committee chairman Ross Fiddin stated that the marine park advisory committee was only able to provide limited input to the Government and was not able to make recommendations? What was the point of having an advisory committee that was not allowed to advise?

**The Hon. IAN MACDONALD:** That is a totally inaccurate summation of the situation. There were many meetings of the consultative council. The council's views, which were various, were made clear to the Government. Many of the ideas put forward by members, including the chair, were adopted within the concept of the marine park. However, as usual with this sort of situation, it is important to get a balance between the various stakeholders. We put forward a draft plan that gave us a pretty good basis for looking at the issues raised in more detail over the next few months. The submissions from interested parties will be listened to and evaluated.

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

## CHILD GROWTH STANDARDS

**The Hon. JOHN HATZISTERGOS:** Yesterday the Hon. Patricia Forsythe asked a question relating to the new World Health Organisation child growth standards. I now provide the following supplementary information. NSW Health is aware of the World Health Organisation's child growth standards released on 27 April 2006. I am advised that paediatricians, general practitioners, and child and family health nurses are represented on the reference group overseeing the current major review of the child personal health record known as the "Blue Book". This resource is distributed to all parents in New South Wales upon the birth of their child and includes a growth reference to assist parents and health professionals in monitoring children's growth and development.

The role of the reference group includes advising NSW Health on the selection of the most appropriate growth reference. Currently the reference group is considering which growth reference should be included. The reference group has noted that World Health Organisation charts are only available for 0 to 5-year-olds at this time. Health system requirements for a consistent reference from birth through to adolescence must also be considered. I am advised that NSW Health is also represented on the National Community Child Health Council, which is currently discussing a national approach to the adoption of appropriate growth references for children.

The Hon. Patricia Forsythe's question also raised an issue with respect to breastfeeding. NSW Health strongly supports the protection and promotion of breastfeeding, and has recently released a publication entitled "Breastfeeding in NSW: Promotion, Protection and Support". This demonstrates NSW Health's commitment towards improved population breastfeeding practices.

**Questions without notice concluded.**

## CONVEYANCERS LICENSING AMENDMENT BILL

## PIPELINES AMENDMENT BILL

## VALUATION OF LAND AMENDMENT BILL

**Bills received.**

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

**Motion by the Hon. Tony Kelly agreed to:**

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

**Bills read a first time and ordered to be printed.**

## BUSINESS OF THE HOUSE

### Postponement of Business

**Committee Reports Orders of the Day Nos 1 to 29 postponed on motion by the Hon. Tony Kelly.**

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

## BUSINESS OF THE HOUSE

### Suspension of Standing and Sessional Orders: Order of Business

**Ms SYLVIA HALE** [2.30 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 119 outside the Order of Precedence, relating to a further order for papers regarding Snowy Hydro Limited, be called on forthwith.

I seek urgency for this motion because, despite the establishment by this House of a committee of inquiry into the sale of Snowy Hydro Limited, the Government is proceeding to privatise this unique strategic energy and water asset with undue haste, no transparency, and without the consent of the people of New South Wales or their elected representatives. I would be surprised if the Government now chooses to argue that this motion is not urgent given that the Government itself is pushing ahead with the sell-off of Snowy Hydro Limited with an urgency that borders on reckless. Last week the Government made clear its determination to ignore the overwhelming public opposition to the sale when it announced the appointment of the post-sale chairman and directors.

On Monday of this week the Government went further, announcing the opening of pre-registration for the prospectus with full-page newspaper advertisements. Clearly, the whole matter is of the utmost urgency to the Government, so the Government and the House should support this motion being debated. The motion

addresses the release of certain papers relating to the privatisation of Snowy Hydro Limited. It refers specifically to documents relating to the employment of and advice provided by consultants, the potential risks of Snowy Hydro's involvement in derivates trading, and how the Government has made its assessment of the potential value of this assets that it now wants to sell off.

It is clearly in the urgent interest of the people of New South Wales that these documents be made public. The Government has a responsibility to be open and transparent with the public, the current owners of Snowy Hydro, about the decision to sell off such a strategically, economically and environmentally important public asset. The level of community disquiet—indeed anger—over this sale and the secrecy surrounding it is palpable. My office has been inundated with phone calls, letters, emails and petitions from members of the New South Wales public who are infuriated by the Government's proposal to sell Snowy Hydro Limited and its secrecy in not allowing a full, open, informed debate about the proposal. I urge all honourable members to support this urgency motion, to stop the reckless charge to sell off our greatest public water and renewable energy asset without any public analysis or justification being presented to the people from whom it is being taken without consent.

[*Interruption*]

**The Hon. JAN BURNSWOODS** [2.35 p.m.]: Before I commence my contribution I ask the Deputy Leader of the Opposition to withdraw the remark he just made about me, questioning whether I should be called "honourable".

**The Hon. Duncan Gay:** If it offends the member to be called "honourable", I withdraw the remark.

**The Hon. JAN BURNSWOODS:** The Deputy Leader of the Opposition has not withdrawn the imputation I asked him to withdraw. I asked him to withdraw the very offensive remark he made suggesting that I was not honourable. The honourable Deputy Leader of the Opposition spends a lot of time in this House pretending that he upholds standards. In fact, he is one of the most obnoxious and worst-behaved members of the House, and I repeat my request that he withdraw the remark.

**The Hon. Don Harwin:** Point of order: We were in the middle of a self-righteous tirade about another member's behaviour and then that member directly infringed Standing Order 71 as it relates to reflecting upon another member. I ask you to call the Hon. Jan Burnswoods to order.

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** Order! I ask all members to be more respectful of one another when referring to one another in debate. I ask the Deputy Leader of the Opposition to withdraw the remark complained of in a more honest way.

**The Hon. Duncan Gay:** I have withdrawn it.

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** Order! I do not believe that the Deputy Leader of the Opposition has withdrawn the inference that the Hon. Jan Burnswoods is not honourable.

**The Hon. Duncan Gay:** *Hansard* will show that I used the word "honourable". I said the word "honourable", and I withdrew it. I said if the honourable member felt that the word "honourable" was used incorrectly, I would withdraw it, and I did so. I am uncertain what the Hon. Jan Burnswoods or you, Madam Deputy-President, are trying to say.

**The Hon. John Ryan:** Point of order: I was next to the Deputy Leader of the Opposition when he said the word "honourable", after the Hon. Jan Burnswoods was introduced as "the Hon. Jan Burnswoods". It is my understanding that the Hon. Jan Burnswoods does not always use the honorific title; indeed, she quite frequently does not use it. I understood what I heard to mean whether or not she was being correctly introduced, as is her preference. She decided to take offence at a question being asked as to how she was being introduced. I do not believe any point of order exists, and I do not believe my colleague the Deputy Leader of the Opposition has anything to withdraw.

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** Order! It seems the Hon. John Ryan is taking a point of order on my ruling on a point of order. If that is so, there can be no point of order, and the Hon. Jan Burnswoods may continue.

**The Hon. JAN BURNSWOODS:** Thank you. I feel quite pleased about all of that. I oppose the motion moved by Ms Sylvia Hale, and I do so on a number of grounds. The motion deals with the issue relating to Snowy Hydro Limited. It seems to me that once again this is an attempt to gazump the procedures of the House and to use those procedures to continue to discuss something in a variety of different forms. I point out in the first place that a committee has been set up to inquire into this matter. That committee will have its first meeting during the dinner break tonight. There has also already been a call for papers, and I understand that those papers are also to be provided tonight.

During the last sitting week the House discussed—and certainly I contributed to the debate—the way in which the procedures of this House are continually misused by certain members. This is yet another example of that. We are attempting to get through a substantial amount of Government business. So far today we have dealt with one bill and we are partly through another. However, yet again a member is attempting to misuse the forms of the House to bring up a matter that has already been brought up in two or three different ways.

**The Hon. Don Harwin:** Point of order: To use the word "misuse" is to make an imputation about a member, and that is disorderly.

**The Hon. JAN BURNSWOODS:** To the point of order: As the Opposition Whip well knows, I did not make an imputation against a member. I referred to a process by which some members misuse the forms of the House. Usually, Reverend the Hon. Fred Nile speaks about the misuse of our procedures. I ask you to rule against the point of order.

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** Order! The comments of the Hon. Jan Burnswoods relate to the general behaviour of members. No point of order is involved.

**The Hon. TONY KELLY** (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [2.41 p.m.]: In light of the eloquent contribution by the Hon. Jan Burnswoods, I move:

That this debate be now adjourned.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [2.41 p.m.]: The Government, at every waking moment, wants to cover up the sale of Snowy Hydro, which it should rightly be ashamed of. No Government member should be more ashamed of what he or she is doing than the Hon. Tony Kelly. No wonder he sneaks into the Parliament and tries to hide this!

**The Hon. Tony Kelly:** I was here before you.

**The Hon. Peter Primrose:** Point of order: I listened with great care to the points made by the Opposition Whip, who raised concerns about a member making an imputation against another member. If that had happened previously it would have been wrong, and the imputation should have been withdrawn. However, the Deputy Leader of the Opposition is now making an imputation against a member whom he has personally named. That is out of order, and he should be asked to withdraw his comments.

**The Hon. DUNCAN GAY:** To save the time of the House, I withdraw my comments about the Hon. Tony Kelly. I acknowledge that he is not at all embarrassed about this sale.

**The Hon. Jan Burnswoods:** Point of order: I draw your attention to the fact that the Deputy Leader of the Opposition, as he often does, failed to sit down during the debate on the point of order. I ask you to remind him of his total contempt for the appropriate forms and conventions of this House.

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** Order! The Deputy Leader of the Opposition may continue, but he should confine his remarks to the question before the Chair and not misrepresent other members.

**The Hon. DUNCAN GAY:** I will ignore the challenges that are being put before me today. Some members are easier to ignore than others, but on this occasion I will certainly ignore all of them.

**The Hon. Jan Burnswoods:** Is that a promise?

**The Hon. DUNCAN GAY:** You would never be on a promise.

**The Hon. Jan Burnswoods:** Is that a sexual remark?

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** Order! Interjections are disorderly at all times and should be ignored by the member with the call.

**The Hon. DUNCAN GAY:** I am certainly trying to ignore them. The original motion before the House—

**The Hon. Jan Burnswoods:** Sexual harassment has always been his forte!

**The Hon. DUNCAN GAY:** I take offence at that comment.

**The Hon. Peter Primrose:** What was the comment?

**The Hon. DUNCAN GAY:** The Hon. Jan Burnswoods said, "Sexual harassment has always been his forte." I ask her to withdraw that comment.

**The Hon. Jan Burnswoods:** If the Deputy Leader of the Opposition withdraws his remark about my being on a promise, I will withdraw my remark that sexual harassment has always been his forte.

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** Order! I am concerned about the increasing disorderly conduct of members. I ask members to reflect on the role of members of Parliament and to conduct themselves accordingly. At this time I will not ask any member to withdraw his or her remark.

**The Hon. John Ryan:** That is outrageous!

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** Order! Remarks of an unfortunate nature have been made by members on both sides of the House. Is it the wish of the member that all such remarks should be withdrawn?

**The Hon. John Ryan:** If you do not ask the Hon. Jan Burnswoods to withdraw that incredibly offensive remark, any time a member accuses another member of sexual harassment it will be considered fair game in debate and the precedent will be used time and again. In my view the Hon. Jan Burnswoods has no choice but to withdraw the outrageous imputation that my colleague the Deputy Leader of the Opposition is in any way guilty of sexual harassment. Sexual harassment is not flippant; it is sustained activity.

**The Hon. Peter Primrose:** Breathtaking hypocrisy!

**The Hon. John Ryan:** How is that breathtaking hypocrisy?

**The Hon. Peter Primrose:** What the Deputy Leader of the Opposition said! You know!

**The Hon. John Ryan:** Sexual harassment is an offence that continues, even when a person is asked to stop. At no stage—

**The Hon. Peter Primrose:** It's been continuing now for years.

**The Hon. John Ryan:** In any event, sexual harassment is an offence. Madam Deputy-President, it is not possible to do deals on this. No offence has been taken until this point. Offence was taken at the term "sexual harassment"; the Deputy Leader of the Opposition asked for that remark to be withdrawn. If you do not regard the Hon. Jan Burnswoods' remark as unparliamentary, then sadly accusations of sexual harassment will become commonplace in this House and the standards of the House will deteriorate greatly.

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** Order! I repeat that the Hon. John Ryan should not attempt to take a point of order on a ruling from the Chair.

**The Hon. DUNCAN GAY:** This has become ridiculous. The Hon. Jan Burnswoods made a comment. I cannot remember the exact comment but it was along the lines of, "You won't make a promise". I flippantly said to her I would not put her on a promise. That was probably a silly thing—

**The Hon. Jan Burnswoods:** That wasn't what you said.

**The Hon. DUNCAN GAY:** It was something like that.

**The Hon. Jan Burnswoods:** It was worse than that.

**The Hon. DUNCAN GAY:** If this obnoxious member could be quiet for a moment. I am trying to accept that the honourable member may have found my flippant comments offensive. If some of my comments were considered offensive, I apologise and withdraw them. I ask the Hon. Jan Burnswoods to withdraw her totally obnoxious and untrue comment.

**The Hon. Jan Burnswoods:** For the second time, I happily withdraw my comment, subject to the Deputy Leader of the Opposition withdrawing his comment. He has withdrawn his remark, and therefore I happily withdraw mine.

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** Order! The issue is resolved.

**The Hon. DUNCAN GAY:** In addressing the motion moved by the Hon. Tony Kelly—

**The Hon. Tony Kelly:** So you're going back to whacking me!

**The Hon. DUNCAN GAY:** No, I will not whack the Hon. Tony Kelly. He has happily allowed me to withdraw my comment that he was embarrassed about the situation. It is important that we move on to the substantial debate before the House. Not one minute or hour goes by in which the Government is not proceeding headlong into the sale of Snowy Hydro. I am opposed to the sale. Indeed, most people in the State are opposed to it. There is no proper transparency to the sale. The Government will not allow the House to debate the sale, and it will not allow the sale to be delayed until a democratically elected committee of this House meets to examine the documents.

The Opposition opposes the Government adjourning this debate to another day. We support the urgency motion of Ms Sylvia Hale to bring on the debate under Standing Order 52 so we can try to find documents relating to the sale that the Government is trying to hide. No matter how the Government tries to distract us with unbelievably bad comments in the Chamber today, we will not be moved from our single-minded position that Snowy Hydro should not be sold.

**Ms LEE RHIANNON** [2.49 p.m.]: We need to be aware, in voting on this motion to adjourn the debate, what we are voting on. If we vote to adjourn the debate, we vote for the sale of Snowy Hydro Limited. Let us not mince words. That is what is going on here. The Government is desperate to put off this debate. It is trying to buy time.

**The Hon. Catherine Cusack:** Bring forward the sale; put off the debate.

**Ms LEE RHIANNON:** Yes, that is what it is attempting to do here. It is attempting to stifle debate. Members need to be very clear about what they are voting on here. It is not just a procedural matter; it will feed into the whole agenda. We also need to remember why we are discussing this motion about a call for papers. We all thought that that motion had been successfully passed and that shortly we would be reading those papers. Now we learn that with the prorogation we somehow lost that motion. That story is still to be told. That is why we have to bring this matter on by urgency today. Many of us have a deep commitment to the proper process of this House. At the moment we have lost that because the motion to release the papers was lost with prorogation. Surely we should be able to have this debate now, move the motion and vote on it, in accordance with what we lost when the House prorogued.

**Reverend the Hon. Dr GORDON MOYES** [2.50 p.m.]: There are three issues in this debate. First, the Government is trying to delay the situation by not producing the papers. Second, the Greens are trying to hijack the agenda and take it away from the democratically elected committee inquiry. Finally, the committee is meeting tonight. I am quite sure that one of the first items of business will be that the committee will call for the production of papers. I suggest that the House delay its deliberations on this—

**Ms Sylvia Hale:** That is dreadful!

**Ms Lee Rhiannon:** You have just sold out!

**Reverend the Hon. Dr GORDON MOYES:** I have had enough of the Greens making these deliberate lies and misquoting what we have said. The committee will discuss this tonight. We are seeking independent legal advice concerning papers. I suggest that we support the motion before us—that is, that this matter be adjourned until tomorrow.

**The Hon. PATRICIA FORSYTHE** [2.52 p.m.]: I join my colleagues in opposing the adjournment of the motion. I shall make one point about the power of the select committee. My understanding is that a select committee has no power to call for the production of papers. That can be done only by the House. That is why this motion should not be adjourned. That is why the Government is seeking to delay it. The House has the power to call for papers. A committee will not be able to achieve anything in that regard. It is absolutely imperative that this motion not be adjourned and that we call for the production of papers today. If the committee is to be taken seriously, it must have those papers available to it. That can be achieved only by a vote of this House. I urge the House to not support the motion to adjourn the debate but to support the motion for the production of the papers.

**The Hon. GREG PEARCE** [2.53 p.m.]: I draw the attention of honourable members, particularly Reverend the Hon. Dr Gordon Moyes, to the most recent experience of a select committee—the Select Committee on the Cross City Tunnel—in regard to a call for papers. In that case, the order for the first set of papers came from the House. Most recently, Reverend the Hon. Fred Nile has called for a further order for papers for the cross city tunnel committee. Whether the committee has in due course power to call for papers seems irrelevant. If the House does not proceed with this call for papers, it will delay the matter and create a question that will be expensive and time-consuming to resolve—that is, whether the committee has such a power. I respectfully suggest to Reverend the Hon. Dr Gordon Moyes that he follow the precedent of Reverend the Hon. Fred Nile and that his select committee proceed after the House calls for papers.

**Ms SYLVIA HALE** [2.54 p.m.]: Throughout this entire debate the Government has attempted to prevent public discussion on the issues. First, it said that there was no need for a parliamentary debate. However, when the Minister for Industrial Relations was howled down in Cooma he had to concede that there would be a public debate. Since that time councils across the State, organisations across the political spectrum, have said that they do not want Snowy Hydro sold. At the very least, they want it made clear what arguments the Government is putting forward to justify the sale. The Government has not produced one shred of evidence to sustain any of its assertions that the Snowy should be sold. We have heard only assertions from the Minister; no-one has been provided with factual material.

If the debate is adjourned as a result of the Government's actions today, we will be pouring scorn on the decision of the House on 10 May to request papers relating to the Snowy sale. The Government is turning to legal advice, which none of us had access to, to say it will not make those papers available. If we have this debate today, at least the House will be asserting its authority. We are not supinely bending over and allowing the Government to tell us what we can and cannot have. It is absolutely critical to the authority of this House, its supremacy over the Executive, that crucial documents be provided. This issue is important not only to the House but to members of the public who are daily being asked to register their interest in purchasing shares in the Snowy. No-one should be invited to buy a pig in a poke. If the Government has nothing to hide it should expedite this debate, not try to stonewall, stall and delay it at every circumstance. Reverend the Hon. Dr Gordon Moyes must be well aware that that is the purpose of this exercise.

The Greens are not trying to hijack the agenda. When Reverend the Hon. Dr Gordon Moyes moved that a select committee be established we were happy to support his motion. We were happy to support other motions moved throughout the community that the matter be properly ventilated. If, as has been pointed out, the release of these papers requires the assent of the House rather than just the request of the committee, the substance of Reverend the Hon. Dr Gordon Moyes' remarks has been destroyed. He should be persuaded by the views expressed by members of the Opposition as well as by members of the crossbench that this matter is urgent. It is fundamental to the authority of this House. It is also fundamental when we take into consideration the genuine public interest in this matter. I urge honourable members not to adjourn the debate but to bring it on. We should be able to look at the documents that the Government is desperately anxious to avoid revealing.

**Reverend the Hon. FRED NILE** [2.58 p.m.]: I seek to clarify what we are debating. A motion was passed on 10 May to produce Snowy Hydro Limited papers. Ms Sylvia Hale seeks to move a second motion, which moves into a different area. I have not discussed the matter with the Government, but during debate on the motion prior to the prorogation of Parliament the Minister said that the wording of the motion may be in conflict with the Commonwealth corporations legislation and amendments may be necessary. The purpose of

the adjournment is to allow the committee to examine the matter tonight. The committee will place a motion on the *Notice Paper* tomorrow and the House will pass the motion. There will be no delay and we will be able to deal accurately with the issue. Opposition members may not be concerned about the wording of the motion. In their minds, if this political debate embarrasses the Government, so be it. I believe the House should act properly on this issue. The Christian Democratic Party supports an adjournment of this matter.

**The Hon. JOHN RYAN** [3.00 p.m.]: The support of honourable members for an adjournment seems to turn on whether papers will be produced to the committee. Reverend the Hon. Dr Gordon Moyes conceded that the Government is trying to avoid the tabling of papers. Reverend the Hon. Fred Nile and Reverend the Hon. Dr Gordon Moyes said they were concerned that the House would hijack the work of the committee. It will not. It is common practice for the House to request papers and committees have the capacity to examine them. That has happened again and again on inquiries into various matters, such as the cross city tunnel and the Orange Grove factory outlets. I was a member of the committee that conducted an inquiry into the closure of the Orange Grove factory outlets. The committee had an interesting experience when we attempted to obtain some paperwork from the Government.

I ask Reverend the Hon. Fred Nile and Reverend the Hon. Dr Gordon Moyes to listen carefully to my remarks. The Opposition asserts that committees have the authority to request papers. I will explain to the House what happened when the committee of which I was a member attempted to obtain papers from the Cabinet Office. The Cabinet Office said that it did not recognise the authority of the committee to request papers. It sent correspondence to the Clerk of the Parliaments in that fashion and no papers were provided. The committee obtained legal advice, which made it clear that the committee had the authority to request papers. Reverend the Hon. Dr Gordon Moyes said that his committee would obtain legal advice. His committee will be given the same legal advice—that the committee has the capacity to obtain papers. However, the Government will obtain conflicting legal advice and will not produce the papers to the committee, as happened in the Orange Grove inquiry.

Essentially, the Cabinet Office challenges the House to dispute the matter in court. In the time it takes to deal with the matter in court, the Snowy Hydro will be sold, the committee inquiry will be finished and no papers will be produced. If we do not want to be stymied by legal argument, the only way to obtain papers is by an order of the House for the production of documents. It is clear that committees have the capacity to request papers, but until that fact is established in court the Government will not recognise the committee's authority and will not produce the papers. I can assure the House that the Cabinet Office is concerned about the power of committees to request papers. I suspect it will fight tooth and nail any request for the production of documents. A court case would be very expensive and very lengthy.

The power of the House to request papers is based upon a decision by the High Court in *Egan v Chadwick*. That matter took some time to resolve, at great expense. I urge honourable members not to rely on the authority of committees when dealing with an urgent matter, because the production of papers will not be resolved in a short time. The committee will not resolve this issue tonight. The only secure way to make sure that papers are produced urgently is by way of an order of the House. I point out that a request for papers was made at about the same time the committee was established. The only reason we are debating this motion again is because the House was prorogued—a tactic, I am sure, the Government was aware of when this motion was last debated. As a result, the papers that were requested in the motion previously debated and passed will not be produced. The time for production of papers did not expire prior to the prorogation of the House. Following prorogation, the Cabinet Office considers that the previous motion has disappeared. In the previous debate on the motion, it was not suggested that the House was hijacking the committee. We were not. In fact, it was seen that the House was co-operating with, protecting and supporting the committee. I believe it is vital that the House supports the committee by issuing an order for the production of papers.

Honourable members should understand that the Government is seeking to delay every aspect of this matter. If the Government were to come into the House and say that the committee can have these papers but not those papers—by employing some other trick—I can assure Reverend the Hon. Fred Nile and Reverend the Hon. Dr Gordon Moyes that the papers the Government did not produce would be the most relevant ones. Honourable members should understand that the Government has the capacity to ensure that papers are not made public by claiming privilege. Only members of the House can view privileged documents. The committee members will be able to conduct their inquiry with the full knowledge of those documents. Although they are unable to reveal their content, they can conduct their inquiry fully informed by the documents that are made available. As I said, the Government is able to claim privilege and, as Reverend the Hon. Fred Nile said, there is a procedure to have privilege removed on certain papers.

If the papers were delivered to the House and viewed under privilege, there would be no problem with the Government going forward with the sale of the Snowy Hydro or with the Australian Securities and Investments Commission [ASIC] because members of the House, like Cabinet members, are bound by a code of conduct. We are told that Cabinet members may see the papers, but members of the House, who are bound by the same code of conduct, are unable to do so because that would cause a problem. The Government has raised a furphy. It has done the same thing in the past; it has form. There is no reason why we should not proceed with this motion. I can assure crossbench members that the Government knows well in advance that any problem with the motion can be solved during debate. The Government wants the House to accept that there is a problem with the motion sight unseen. It is unprepared to tell us the exact nature of the problem. It puts spin on it and say it is a generic problem. The Government is prepared to use any excuse to delay the production of documents. To adjourn the motion until tomorrow is a strategic delay by the Government.

**The Hon. John Della Bosca:** Why?

**The Hon. JOHN RYAN:** Because tomorrow the Government will tell us exactly the same story, that it will not produce the papers. It will not offer to make the papers available. If the papers were to be made available, as the House has requested, the Government would have already made the offer and delivered the papers to the House. The Government shields itself under the cloak of prorogation. Any honourable member who thinks that the Government is not shielding itself under prorogation must believe in Santa Claus. The House must pass the motion. When the motion was previously debated, it was not seen as the House hijacking the committee. It was seen as the House working in tandem with and supporting the committee. That is exactly the same position of the Opposition today.

If it were not for the unusual circumstance of prorogation, the papers would have arrived before the committee met. We cannot rely on the committee alone to request papers. That would cause enormous difficulty because a challenge by the Government to the request would result in an impasse. The matter must be resolved prior to the rising of the House this week. The committee will not be able to solve this matter when the House is not sitting. I urge Reverend the Hon. Fred Nile and Reverend the Hon. Dr Gordon Moyes to accept that they are being exposed to a tactic that the Government will fully exploit. It will highjack the committee. They have a choice: they can let the Government highjack the committee or they can allow this House to support them. The Government intends to highjack—

**Reverend the Hon. Dr Gordon Moyes:** They do not have the numbers.

**The Hon. JOHN RYAN:** There is no point in the honourable member's saying that he has the numbers if he cannot use them. He does not have the capacity to pursue this when the House is no longer sitting and the Government has exhausted every possible excuse. The House should not allow any further debate on this matter. The committee will then be able to review the documents and make intelligent decisions based on the facts before it.

**The Hon. DON HARWIN** [3.11 p.m.]: Three main issues have been raised in this debate. The first is the power of committees to call for the production of papers. Honourable members have made various comments about that issue in this debate. It is so important that it was raised in the Legislative Council's annual report last year. Under the heading "Issues of Parliamentary Privilege" in respect of the Liverpool designer outlets inquiry the report states:

> The inquiry was also notable for further developments in an ongoing debate regarding the powers of a parliamentary committee to order the production of documents. Twice during the inquiry the committee resolved under standing order 208 (c) to order the production of documents from relevant government departments. In each instance the relevant Department initially declined to produce the documents concerned and referred to legal advice from the Crown Solicitor which questioned the powers of the committee, or the capacity of the House to delegate to a committee its power to order the production of documents.
>
> In the first instance, the documents were subsequently 'voluntarily' produced at a hearing. In the second instance, the House resolved "notwithstanding the [inquiry being conducted by the committee] and the power of the committee to order the production of the documents..." to itself order the production of the documents. The documents were subsequently provided in accordance with the order of the House.

It is important that we place on the record that in no way does the House concede that committees do not have that right to call for papers. It is important that it be acknowledged that committees do have that right.

[*Debate interrupted.*]

## DISTINGUISHED VISITORS

**The PRESIDENT:** I welcome to the President's Gallery the Governor-General of the Solomon Islands, Sir Nathaniel Waena, Lady Alice Waena and the vice-regal party.

## BUSINESS OF THE HOUSE

### Suspension of Standing and Sessional Orders: Order of Business

[*Debate resumed.*]

**The Hon. DON HARWIN**: The power of the House to call for documents has been conclusively resolved by litigation—that is, in the cases of *Egan v Chadwick* and *Egan v Willis*. Those determinations should also cover committees, but that is not the advice that the Government has obtained from the Crown Solicitor and the House has advice directly contradicting that advice. This motion also raises the question of delaying tactics. The Government has displayed a consistent pattern of behaviour involving the effect of prorogation on the call for papers previously adopted by this House and certainly regarding what has been asserted today with regard to the call for papers by the committee. The second point under consideration is whether this issue should be adjourned until the next sitting day. One of the honourable members of the crossbenches has asserted that the Government needs more time to consider its position on this second call for papers. I do not want to be unfair to the honourable member, but when the issue was debated a couple of weeks ago it was said that there were problems. I cannot understand why we need to adjourn this matter.

**Reverend the Hon. Dr Gordon Moyes:** It will allow the committee to examine it in detail tonight.

**The Hon. DON HARWIN:** The Government knew prior to the prorogation, when we last sat more than 10 days ago, that it had a problem with Ms Sylvia Hale's motion. It is nonsense to suggest that the Government needs another day to consider it. I am sure that the Minister is sitting at the table with his suggested amendments. It beggars belief that he intends to spin a line to honourable members of the crossbench about why he needs another day to look at this in detail. He is treating the House and honourable members with absolute contempt. It is nonsense that the Government needs another day to look at the motion. The third point is the substantive issue, which relates to the Government's specific objections under the Corporations Act. I refer in particular to an Australian Securities and Investments Commission practice note that states:

> Ch 7 of the Law does not bind the Crown. This is because the Crown has direct immunity under the common law doctrine of the Shield of the Crown.

That important point is being lost in the Government's suggestion that somehow the call for papers has been considered previously—

**The Hon. John Della Bosca:** Point of order: The House is obviously taking the view that this is an important debate. However, Madam Deputy-President, I draw your attention to the fact that we are debating whether this motion should be adjourned until the next sitting day—that is, tomorrow. As have other honourable members, the Hon. Don Harwin is straying well away from the question before the House and into a substantive debate about the motion. As I have indicated, there is no difficulty in having this debate, but it does not relate to the question before the House.

**The Hon. Duncan Gay:** To the point of order: Honourable members from the crossbenches who have spoken in this debate, including Reverend the Hon. Dr Gordon Moyes and Reverend the Hon. Fred Nile, have indicated a degree of concern about what could be released and have echoed the comments made last week by the Leader of the Government. We cannot address the motion before the House if we have one hand tied behind our back. The fact that the Minister has already made a speech on this subject and that the Government has already briefed crossbench members about their concerns, which is prompting them to say that they would like this matter adjourned to be able to consider the issue further, indicates that we must address those concerns now. The Hon. Tony Kelly is earnestly working his hardest at the moment with members of the crossbenches—

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** Order! The Deputy Leader of the Opposition should address the point of order.

**The Hon. Duncan Gay:** Thank you, Madam Deputy-President, for your guidance in this matter, but I am addressing the point of order, which relates to the material that the Hon. Don Harwin is raising. That

material is a rebuttal to the Government's argument that has been put previously in this House and about which crossbench members have been briefed in private. We cannot address this issue with one hand tied behind our back. Madam Deputy-President, you should rule that there is no point of order.

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** Order! The Hon. Don Harwin will confine his remarks to the question before the Chair, and that is whether debate on the motion should be adjourned until tomorrow.

**The Hon. DON HARWIN**: I will confine any comments I have about Crown immunity and privatisations to a direct response to what Reverend the Hon. Fred Nile said about the need for advice on this matter and why it should wait until tomorrow—which, in fact, is what I was doing. The practice note that I referred to deals with the issue of direct immunity and privatisations. As I said, the Crown does not have to comply with chapter 7 and cannot incur civil or criminal liability under the law for conduct relating to that privatisation transaction.

Under certain circumstances the Crown is not bound by sections of the Corporations Act that would normally apply to a private person. Therefore, the inference could be drawn that the New South Wales Government would have direct immunity from the Corporations Act for documents released to members of Parliament relating to the offer to sell shares in a company. This is well-understood law and part of a practice note on how the Australian Securities and Investments Commission [ASIC] operates, and debate on the matter should not be adjourned until tomorrow. Earlier my colleague the Hon. John Ryan referred to the code of conduct of members of the Legislative Council, which makes it quite clear that even if the position relating to ASIC were not so clear, the code of conduct for members of the Legislative Council covers the situation in any case because of what the code provides with regard to the behaviour of members and what we need to do with privileged information. As a number of my colleagues have pointed out, a large number of people will see these papers, not just lawyers—public relations people and financial advisers. To suggest that members of this House, who are bound by a code of conduct, cannot look at documents in relation to which privilege is claimed is just nonsense.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [3.22 p.m.]: The Government well knows it is selling this iconic asset against the will of the people. Just as Prime Minister Howard took us into a war that 75 per cent of Australians were against, this Government wants to sell the Snowy against the will of a huge percentage of Australians. The Government is trying to delay the presentation of information and has tried to use the prorogation of the Parliament as a further delaying tactic. Meanwhile, the Government is still going ahead with advertisements in the newspapers regarding the sale.

[*Interruption*]

I acknowledge the interjection that the prorogation directly has nothing to do with it, but the fact is that the Government is trying to use procedures associated with the prorogation to delay the release of documents about which it has known for many days. It wants to delay everything so that the Government's other activities outside this Parliament will proceed and will have time to gain traction. The Government can then say, "Regardless of what the committee says, we have already sold the Snowy. Tough luck! The investors are all on the register and they are all demanding their money. Of course they know an idea when they see one." We have to have access to these documents to find out what is going on in order to do our job, which is to hold the Executive responsible to the Parliament—as opposed to its usual form of making a decision and requiring Labor Party members to file into the Chamber to take part in a farce. They engage in the pretence of making a decision in the Chamber, when the reality is that they have been told what to say in the party room.

The lower House is a rubber stamp for the Executive, as we know. This House does its best despite the Government bullying and conning members of the crossbench and sometimes the Opposition conniving with the Government to achieve a result. But on this occasion we are making a stand. This information has not leaked from any other documents, and it is time that this information came out. New Zealand legislation that provides that all information is open unless the government of the day applies to make it a secret is very successful, but this Government will not release information about anything unless it absolutely has to, despite *Egan v Willis*. Well, it is time that this information was made available.

**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) [3.24 p.m.]: Madam Deputy-President—

**The Hon. Michael Gallacher:** The Minister has already spoken. He cannot reply now.

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** Order! The Minister has not contributed to the motion to adjourn the debate.

**The Hon. JOHN DELLA BOSCA:** I will be very brief because it is likely we will be discussing these matters for some time and it is certainly likely that we will be discussing them again tomorrow. I make two points. The other day, immediately after the prorogation of the Parliament, the Clerk advised me that it was necessary for us to go through the exercise of acknowledging the ancient Law of Evidence Bill. The reason that is done is to assert the right of this Chamber of Parliament to deliberate on matters independent of the Crown. That is, the members of this House are not just taking the direction of the Government to proceed with business.

The whole system works on the basis of a logical and natural tension. No-one makes requests of papers of the Government, of the Chamber, of any individual member or of any committee; papers are ordered to be produced. That is the whole point. The Chamber orders the Government—and has done successfully on many occasions—to produce papers. The Government, because it is an executive and because it has to make discretionary determinations about government from time to time, may decide that it does not want to produce such papers to a Chamber of the Parliament, but this Chamber has the power to order the Government to do so. There is no question of politeness involved here, no-one is being rude to anyone, and there is no intention of disrespect. I repeat: The basis of the system is tension between the parliamentary responsibilities of members in this House and the executive responsibilities of those of us privileged to hold executive office in the Government.

I make that point because members are getting very excited about a concept that somehow the Government is being arrogant or refusing to co-operate. The Executive Government sought advice from the Clerk about the consequences of prorogation with regard to, among other things, the production of papers. The fact of the matter is that the Government is not under an obligation to produce any papers when it takes the view that it is not in the public interest to do so, but it may, in certain circumstances, be obliged to do so whether it likes it or not. Regardless of whether we exercise a judgment that we should or should not, we are obliged to do so. That is a very important and fundamental power that this House has, and it is one that I respect. My entire time as a member of this House has been as a Minister in the Government, so I have had experiences additional to those had by Government members who have not been Ministers or those who have spent their time in Opposition. That has obviously tested our patience and resolve from time to time.

It has been suggested that some crossbench members have been given privileged or different information. For the record, Reverend the Hon. Fred Nile, Reverend the Hon. Dr Gordon Moyes and Ms. Sylvia Hale have received less information about these matters than that received by senior members of the Opposition. It just so happens that I had the opportunity to discuss these matters in some detail with the Deputy Leader of the Opposition and previously with the Hon. Greg Pearce. This is a movable feast; there are issues that need to be determined about these papers. I had a very quick, off the shoulder conversation with Ms Sylvia Hale and other members of the crossbench a short time ago about the consequences of prorogation.

So in the context of what we are asking for, it is not that no papers will be delivered as a consequence of an order for the production of papers. Of course there will be. The point that the Government is making is that, given the principle of the Corporations Law and the obligations under that law and the rules of the Australian Stock Exchange, what is important is the natural tension between the Executive Government and the responsibilities it may or may not have in this Chamber.

I have taken the opportunity to canvas a number of Government amendments to Ms Sylvia Hale's motion. I have not had another opportunity to discuss the matter with the member, although I did have a brief discussion with her when she moved her original motion. I am asking for the matter to be adjourned for one day to allow more detailed discussion about the amendment that the Government wants to move because we believe it is in the public interest to do so. That is the only reason. We do not seek to be arrogant or to hide anything from the Chamber. We accept that as a consequence of *Egan v Chadwick* this Chamber has the power to order us to produce papers.

**The Hon. ROBERT BROWN** [3.30 p.m.]: Not to put too fine a point on it, I feel like a lamb in a field with a very hungry fox on one side and a maremma on the other. The only trouble is that they keep changing identities every 30 seconds as I take advice from them. I find it a bit incongruous that Ms Sylvia Hale, in speaking against the adjournment, referred to urgency and the effect that prorogation has had on this item of

business, whereas this morning the Greens were prepared to forgo decisions made by the House prior to prorogation with respect to a motion I moved relating to a bill of the Hon. John Tingle. However, having said that, as I said in my inaugural speech I clearly do not support—nor do my members—the sale of the Snowy scheme and I need more time to think about the matter as I have received too much conflicting advice in relation to it. The Christian Democrats have a point, and I support the adjournment.

**The Hon. MELINDA PAVEY** [3.31 p.m.]: I do not support the Government's intention to adjourn this debate. The Government has had plenty of time to provide information. I take this stance not from any personal, emotional point of view, but on behalf of the good people of this State, who are concerned about the sale. The Hon. John Della Bosca referred to Corporations Law, but there are other aspects of Corporations Law that are important, and they were specifically referred to by the Hon. Don Harwin. The Crown does not have to comply with chapter 7 of the Corporations Act and cannot incur civil or criminal liability under the law or conduct relating to that privatisation transaction. The Government has provided certain advice but not advice stating that the Crown is not liable in the same way as a private company would be liable.

The select committee is meeting tonight and has an important part to play. I respect the position put by Reverend the Hon. Dr Gordon Moyes. This is a difficult debate and it is all about timing. However, timing is important to the committee and it is important for the committee to have access to information quickly. Early we had a brief discussion with Reverend the Hon. Fred Nile about the information that is needed. We are not aware of what information the Government has in its possession so the call for papers and information must be broad. As parliamentarians we accept that certain documents may be privileged and as such should not be seen by the general public. As members of Parliament we have responsibility under our code of conduct to ensure that any call for privilege is not breached.

I do not support the motion to adjourn this matter for another day. We must move quickly because the Government is moving incredibly quickly on the sale. The prospectus is on line and even the local member, who says he is opposed to the sale, has said that he may even buy shares. There are many concerns, so we need to move quickly and in order to move quickly we need all the information that is available.

**Question—That this debate be now adjourned—put.**

**The House divided.**

**Ayes, 21**

| | | |
|---|---|---|
| Mr Breen | Ms Griffin | Mr Roozendaal |
| Mr Brown | Mr Hatzistergos | Ms Sharpe |
| Ms Burnswoods | Mr Kelly | Mr Tsang |
| Mr Catanzariti | Mr Macdonald | |
| Mr Costa | Reverend Dr Moyes | |
| Mr Della Bosca | Reverend Nile | *Tellers,* |
| Mr Donnelly | Mr Obeid | Mr Primrose |
| Ms Fazio | Ms Robertson | Mr West |

**Noes, 19**

| | | |
|---|---|---|
| Dr Chesterfield-Evans | Mr Gay | Ms Rhiannon |
| Mr Clarke | Ms Hale | Mr Ryan |
| Mr Cohen | Mr Lynn | Dr Wong |
| Ms Cusack | Mr Oldfield | |
| Mrs Forsythe | Ms Parker | *Tellers,* |
| Mr Gallacher | Ms Pavey | Mr Colless |
| Miss Gardiner | Mr Pearce | Mr Harwin |

**Question resolved in the affirmative.**

**Motion for the adjournment of debate agreed to.**

## CONSTITUTION AMENDMENT (GOVERNOR) BILL

### Second Reading

**Debate resumed from an earlier hour.**

**The Hon. DON HARWIN** [3.40 p.m.]: The independence of the Lieutenant-Governor or an Administrator from the Government is a further safeguard against any attempted abuse of these emergency arrangements. The compliance of the Lieutenant-Governor or an Administrator would obviously be predicated on a satisfactory belief in the existence of special circumstances. Further, the bill provides that the administration of the Lieutenant-Governor or Administrator ends as soon as the Governor is available once again and has notified the Administrator accordingly. These provisions are designed to prevent the administration of the State passing to another person without justification or due cause. The bill seeks to ensure that the administration of the State will not be hindered by a major terrorist attack or natural disaster, and does so in an appropriate and balanced manner. As a result, the Opposition does not oppose the bill.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [3.42 p.m.]: The Australian Democrats have no particular objection to contingency planning for expiring Governors, or indeed a number of expiring Governors, but one might reflect. Here we are 224 years into the history of New South Wales and we have not had reason for such legislation in that time. It is interesting that we should need it now when communication has never been better. In our mobile telephones we all have the equivalent of a Dick Tracy watch. We can contact anybody anywhere at any time, yet we are proposing constitutional amendments to allow us to have a sequence of Governors. It says a lot about the insecurity of the nation, and that in turn says a lot about our foolish and belligerent foreign policy, which has made the threat of terrorism so real in New South Wales.

Basically, we are now passing legislation on the assumption that not only the Governor but also the Lieutenant-Governor has been either disabled or killed. We will pass this legislation as being necessary and in doing so we will nod our heads sagely. I would merely point out that, while we have such a belligerent foreign policy, which somehow re-enacts the Crusades of the eleventh to thirteenth centuries, we must expect the threat of terror. We really should do more to get rid of that threat. Then we would not have to worry about constitutional amendments on the assumption that more Governors will be murdered than have been appointed in the 224 years this State has been in existence.

**Reverend the Hon. Dr GORDON MOYES** [3.44 p.m.]: On behalf of the Christian Democratic Party I wish to make some comments on the Constitution Amendment (Governor) Bill, the object of which is to enable the Lieutenant-Governor or Administrator to assume administration of the State in the event that the Governor is "unavailable". It is trite to mention that the social and legal landscape has dramatically changed in this nation since the occurrence of 9/11. The reason that we are considering this bill today stems from a concern in relation to what would happen to the administration of the Executive Government under the New South Wales Constitution Act if the Governor were "unavailable" as a result of a man-made or natural disaster. In effect, this bill legitimises a contingency plan if that were to occur. Currently, under sections 9B, 9C and 9D of the Constitution Act, only the Lieutenant-Governor, who is currently the Chief Justice of the Supreme Court, the Hon. James Jacob Spigelman, AC, or the Administrator, who is currently the President of the Court of Appeal, Justice Keith Mason, AC, are able to assume administration of the Executive Government if the Governor is "incapacitated".

Of course, whether this state of affairs could come into play directly depends on the term "incapacitated". Legal advice was sought by the Cabinet Office to determine whether this term extended beyond situations in which the Governor was not physically or mentally incapacitated. Commonly, "capacity" within a legal context, refers to having sound mental faculties. The Crown Solicitor advised that "incapacity" might not extend to situations beyond physical or mental incapacity. This means that, in the event of the Governor being detained in a location as a result of a natural or man-made disaster—or, could I suggest, even a straight out kidnapping—the Lieutenant-Governor or Administrator would not be able to step in, on a solid legal footing, to exercise administration of the executive arm of the Government.

The bill seeks to remedy this situation by prescribing that the Lieutenant-Governor or Administrator may assume administration in situations where the Governor is "incapacitated" beyond physical or mental incapacity. However, it is of the utmost importance to note that certain qualifications will apply to this assumption of responsibility. The first qualification provided by the bill is that the Lieutenant-Governor or Administrator may only assume administration with the concurrence of the Premier or other Minister, provided

one of them is available. If the Premier is not available to provide concurrence, then it will be incumbent on the next senior Minister to consider concurrence in place of the Premier. The second qualification provided by the bill is that the governance arrangements may not come about simply for administrative convenience.

In order for the Premier or other Minister to determine the question of whether the Lieutenant-Governor or Administrator should assume responsibility for the administration of the Executive Government, certain criteria will need to be met. First, in the given circumstances, it must be not possible to determine whether or when the Governor will become available again; second, it must be necessary for the administration of the State that certain functions of the Governor be exercised prior to the Governor's return. What is important is that the Lieutenant-Governor or Administrator may not assume administration in circumstances where the Premier or another Minister is not available to grant concurrence unless he or she is satisfied that the criteria for the concurrence of the Premier or Minister is met.

We had a good example of this when 9/11 occurred in the United States of America. The President was immediately flown out of Washington DC and sent to a secret location. He was therefore "incapacitated" because of the possible personal threat against him. The American system had a good, legally balanced approach whereby the Speaker of the House, the Chief Justice and other senior personnel were involved. Honourable members might recall that in that instance the Mayor of New York, Mr Giuliani, was delegated certain responsibilities and powers.

**The Hon. Duncan Gay:** Wasn't he in a schoolroom in the southern part of America?

**Reverend the Hon. Dr GORDON MOYES:** On September 11, yes.

**The Hon. Duncan Gay:** He was not flown out.

**Reverend the Hon. Dr GORDON MOYES:** No, he did stay, but the plan was for him to be flown to Oregon. If he had been in Washington, the plan was that he should be flown to Oregon to a safe place. However, I am simply making the point that the Americans had contingency plans for the incapacity of a President in just such an emergency. An intrinsic role of legislators is to cater for the vicissitudes of life. Though we would not dare hope that this legislation will ever become applicable, I must say that such legislation is needed to pre-empt any circumstances that could render the Governor "incapacitated". It is important that legislation be prescriptive. I am certain that other honourable members will join me in commending this bill to the House.

**The Hon. ERIC ROOZENDAAL** (Minister for Roads) [3.49 p.m.], in reply: I thank honourable members for their contributions to the debate. The bill again demonstrates the Government's commitment to ensuring that New South Wales is fully prepared to respond to a major incident. The bill has been drafted after careful consideration of circumstances which might affect the functioning of the Executive Government in a crisis. It will ensure that the Executive Council can continue to operate notwithstanding difficult circumstances that may exist following a major terrorist or other incident. A number of important safeguards are included to ensure that the procedure provided for by the bill is used only in appropriate circumstances. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## SUMMARY OFFENCES AMENDMENT (DISPLAY OF SPRAY PAINT CANS) BILL

### Second Reading

**The Hon. ERIC ROOZENDAAL** (Minister for Roads) [3.51 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.**

Graffiti is a problem which costs New South Wales tens of millions of dollars each year.

In 2004-05 alone RailCorp spent $2.3 million removing graffiti from trains, using up valuable tax dollars which could be better spent on other services. Local councils, private organisations and individuals spend millions more removing graffiti from public and private property.

The bill I introduce today aims to reduce the amount of graffiti in the community by reducing the theft of spray paint cans. To do this, the bill requires retailers to keep these cans either in a locked cabinet or behind a counter in such a manner that members of the public cannot gain access to them without assistance.

The bill forms part of the Government's comprehensive strategy to drive down the incidence of graffiti on trains, public transport infrastructure and other community facilities.

We are now asking retailers—large and small—to assist our efforts by depriving would-be graffiti perpetrators of easy access to spray paint cans.

The strategy is a key plank in the Government's *Respect and Responsibility* reforms, focussing on instilling greater respect for public property and placing responsibility squarely on the shoulders of those who disregard it.

The Government's anti-graffiti strategy is comprehensive. It includes:

- The establishment of an Anti-Graffiti Action team, which brings together experts from NSW Police, transport agencies, the Attorney-General's Department, local government, the Roads and Traffic Authority, retailers and the paint industry in order to co-ordinate and implement new graffiti initiatives;

- increasing use of Community Service Orders to make offenders repair the damage caused by graffiti vandalism;

- identification of graffiti "hot spots" and stepping up of enforcement and surveillance, especially through CCTV;

- assisting councils and government utilities to develop Graffiti Management Plans targeting high graffiti environments;

- local councils accrediting community groups and volunteers to remove graffiti;

- a $500,000 funding contribution from RailCorp to NSW Police to continue the work of "Operation Chalk" to crack down on graffiti vandals.

The Government is working hard to wipe out graffiti from our streets and has had some good results.

As part of its *Graffiti Solutions Program*, the Government introduced a range of initiatives including the Graffiti Community Service Orders Clean-up Scheme, which encourages councils to establish graffiti clean-up teams, and provides opportunities for offenders to remove graffiti as part of their community service work.

This initiative has seen 60,000 hours of graffiti removal work completed, and the orders are currently in use in 20 local government areas. The Government plans to expand them to other identified hotspots.

Other initiatives have included:

- the Beat Graffiti Grants program, which funded legal art projects for young people, and other anti-graffiti projects;

- the Graffiti Information Line, to give businesses, community organisations and residents a chance to report graffiti and access information about removal services;

- the Graffiti Blasters Initiative, which targeted 13 local government areas and provided grants of $25,000 for the purchase of graffiti blasting equipment;

- a Retail Traders Voluntary Industry Strategy, to inform retailers of their right to refuse to sell graffiti equipment, and how to avoid theft of graffiti equipment;

- an information program which included the NSW Government Graffiti Information website and the Graffiti Solutions Handbook for Local Government, Planners, Designers and Developers.

In 2003, the Government introduced legislation banning the sale of spray paint to persons under 18, and, prior to the introduction of the legislation, distributed a Retailers Anti-Graffiti Resource Kit.

The Kit provided retailers with information and resources to help them fulfil their obligations under the legislation and reduce the incidence of graffiti in the community.

More recently, the Government has had good results from its "Operation Chalk" graffiti crackdown.

"Operation Chalk" involves covert operations on RailCorp property, including railway stations, stabling yards, commuter car parks and the rail corridor. Twelve police officers are working with RailCorp and the network's 600 transit officers, proactively deploying resources to target vandals. Teams are able to monitor vandals' every move via CCTV or other technology with the aim of making arrests before a spray can is even uncapped.

So far "Operation Chalk" has resulted in:

- 24 people arrested;

· 300 charges laid; and

· Two well-established vandalism crews being disbanded.

This Bill and the Government's anti-graffiti strategy will add to these successes in eliminating the scourge of graffiti from our communities.

By reducing the theft of spray paint cans, the Bill aims to reduce the amount of graffiti on our streets.

Before drafting the Bill, the Government consulted widely with retailers and spray paint suppliers. As a result, retailers have been given the option of keeping spray paints in a locked cabinet or behind a counter. Retailers expressed support for building as much flexibility as possible into the Bill, so that different stores can choose the option which best suits their circumstances.

Consequently, the Bill also contains a power to make regulations to allow for further options for displaying spray paints, if these are considered appropriate in the future.

The consultation process also resulted in the inclusion in the Bill of the following provisions:

· a provision allowing for regulations to be made to exclude any specified class or description of spray paint from the Bill's operation; and

· a provision requiring the operation of the Bill to be reviewed after 2 years.

The exemption provision will allow spray paints which are not used for graffiti to be excluded from the Bill's operation, if this is considered appropriate.

The Government will hold further consultations before providing for any exemptions, but it seems that small craft aerosols or paints which do not contain any pigment may be suitable for exemption.

The review provision will enable the Government to examine the effect of the legislation on retailers and the community, and consider whether the restrictions should be continued.

The Government has also agreed that, prior to the commencement of the Bill, the Office of Fair Trading will conduct a comprehensive education campaign which provides information not just about the new provisions, but also about the full range of measures being used to combat graffiti.

This will ensure that retailers and consumers understand that restricting access to spray cans is an important part of an overall anti-graffiti strategy.

When announcing the proposals in the Bill, the Premier made a commitment that the Government would work with retailers and the spray paint industry to ensure that the legislation is workable.

As part of this commitment, the Government has agreed to a commencement date of 1 November 2006.

While we would like to have the Bill's provisions in place as soon as possible, retailers have expressed strong concerns about their ability to ensure compliance by 1 September, which was the original date nominated.

The Government has listened to these concerns, and has agreed to postpone commencement until 1 November…to give retailers time to have cabinets and other shelves made if necessary, re-arrange their stores, and train staff.

And the Government does acknowledge that the Member for Hills introduced a bill into this house in 1995, with similar effect to this one. The Government argued at the time that there were other priorities in a whole of government approach to graffiti.

Ten years on, in a refined and improved form, it is time to introduce legislation which addresses the supply and access to spay cans at the shopfront.

The Government will also be providing retailers with a more flexible framework in which to operate than was proposed in the opposition's previous bill.

As I have outlined earlier, the bill adds to the Government's now comprehensive anti-graffiti strategy.

I commend the Bill to the House.

**The Hon. DAVID CLARKE** [3.51 p.m.]: The Opposition does not oppose the Summary Offences Amendment (Display of Spray Paint Cans) Bill. Indeed, any legislation that will assist in the fight against graffiti crime is to be welcomed. The only problem is that the Government is dealing with the problem in a piecemeal fashion; there is no overall or effective strategy in place to deal with it. The truth is that there is an absence of any government strategy at all. I suppose we should be grateful that the Government has taken any action, no matter how delayed or haphazard it is in tackling the problem.

The purpose of the bill is to amend the Summary Offences Act 1988 to require retailers who sell spray paint cans to properly secure them if they are displayed in areas to which members of the public are permitted access. Under the new section, a spray paint can is properly secured if it is displayed in a locked cabinet, in or

behind a counter, so that customers cannot gain access to it without the assistance of shop staff, or in any other manner prescribed by the regulations. The regulations will be able to exempt certain kinds of spray paint cans from the new section, and the operation of the new section will be reviewed after two years following the commencement of the proposed Act. The bill provides penalties if there is a breach of the requirement that spray paint cans be properly secured.

The proliferation of illegal graffiti is continuing to escalate uncontrollably; indeed, it has reached epidemic proportions in New South Wales. Only a few weeks ago I had cause to speak in this Chamber about this growing problem, which is particularly serious in Western Sydney. As I indicated on that occasion, the Bureau of Crime Statistics and Research records that in 2004 there were 6,319 reported cases of graffiti crime in New South Wales, with some 3,767 of them in Sydney. I have not seen the figures for 2005, but I shudder to think what they will show. For every case of reported graffiti criminal act, probably at least 10 other cases, or more, remain unreported. And why would so many cases remain unreported? Because the community no longer has confidence that anything will be done!

People have given up in despair. They know that the Government clearly gives the war against graffiti crime a low priority. Not only does this uncontrolled graffiti plague cause visual ugliness in the community and involve the defacing of public buildings and private property; it is also causing escalating financial expense to the community—increasing financial expense incurred by local government and other public bodies to remove it and increasing financial expense incurred by the public to rid their properties of this plague of graffiti. It is also causing increasing expense through escalating insurance premiums. The Labor Government has been negligent—indeed, it has been in dereliction of its duty—in failing to effectively combat this growing graffiti scourge in our community.

Instead of increasing police numbers to combat crime, including graffiti crime, the Government has been downsizing police numbers. Instead of providing increasing resources to deal with graffiti crime, it has done precisely the opposite. Its answer has been to abolish the graffiti task force, a highly effective and efficient body in dealing with the problem. What a great response that was—abolish the most effective body there was in dealing with the problem! In its place, the Government has been touting an education program to explain to the community how more effectively to remove graffiti from defaced properties and how to design and build properties in a way that minimises the opportunities of graffiti criminals to indulge in their passion.

The Government's response relies heavily on encouraging councils to establish graffiti clean-up teams. How is that for an aggressive anti-graffiti campaign! The Government is now handing out penny and dime-size financial grants to assist councils to purchase graffiti blasting equipment. Can one think of a more puny, effete and ridiculously ineffectual response to escalating graffiti outbreaks? To combat more graffiti outbreaks, the solution is to find more cleaners and cleaning equipment to clean it up. The people of New South Wales have had enough of this sort of nonsense. For a long time now the Opposition has been advocating a concerted strategy to deal with growing graffiti crime in our community, but the Government has consistently failed to act.

Now the Government has finally been prodded to come forward with a proposal to deal with the problem. But, as usual, this Government resorts to action on a piecemeal basis. When public outcry and outrage has reached such proportions that it can no longer remain idle and disinterested, the Government reacts in its typical piecemeal fashion. And that is what it has done in the case of graffiti crime. Its response is to produce the Summary Offences Amendment (Display of Spray Paint Cans) Bill. As I indicated earlier, the Opposition does not oppose the bill, which is certainly one step—it should be one of many steps but it is not—the Government should be taking on this issue.

The bill seeks to legislate actions that have for years been proposed by Opposition members. Indeed, the Liberal member for The Hills, Michael Richardson, has been vocal in advocating measures similar to those contained in the bill. His calls went unheeded, but the Government has now decided to act—and about time, too! While the bill is certainly necessary, it is only a small step. For example, the busy trade in the Internet ordering of spray paint cans will continue unabated. The problem will not be brought under control if the Government's sole response is to shift responsibility totally onto the shoulders of retailers, as it does with this bill.

There is more to bringing graffiti crime under control than what is proposed in the bill. When will the Government announce a comprehensive, well-considered and serious response to the problem of graffiti, instead of a scatter gun, piecemeal, unco-ordinated approach? The answer is probably never. So in not opposing the bill, the Opposition also undertakes to the people of New South Wales that after March 2007, after the next election, after the reign of this discredited Government comes to an end, a Liberal-Nationals Coalition government will ensure that graffiti crime is finally dealt with effectively and energetically with a comprehensive and co-ordinated response.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [3.58 p.m.]: The Summary Offences Amendment (Display of Spray Paint Cans) Bill amends section 10 of the Summary Offences Act 1988 to require that retailers who sell spray paint cans must not display these products in their premises unless the cans can be properly secured. Under new section 10D occupiers of retail premises where spray cans are sold will be fined more than $1,000 if a spray paint can is not secured in a locked cabinet or behind a counter in such a manner that members of the public cannot gain access without the assistance of an employee or the shop owner, or in a manner prescribed by regulation. The Minister will review the operation of the Act after two years.

The Government claims the purpose of the bill is to reduce theft of spray paint cans and contribute to a reduction in the amount of graffiti in the community. In 2004-05 RailCorp spent $2.3 million on removing graffiti from rolling stock. The Government has also recently announced the establishment of a new anti-graffiti action team to drive down the incidence of graffiti on trains, public transport infrastructure and other public facilities. I have been an activist who used graffiti as a medium to protest against the promotion of unhealthy products—principally tobacco products but not entirely. I was arrested for this, and I take a great deal of interest in the subject. The idea that if you pay a lot of money and buy a billboard, whether it is harmful to society or not, that you can put on it any message you like and that is your God-given right, and the full force of the law will come down on anybody who tries to write the truth or any modifying message on it, is an interesting approach to the power of relationships.

The Government is missing the point. A few years ago the Parliament passed a law to prohibit the sale of spray paint cans to people under 18. The reason given at that time was to combat graffiti. I wonder whether any research has been done to see whether that law has been successful or we are simply tightening the screws. When the law does not work, do we simply put in another law that is stricter? The question has to be asked: What is the best way of stopping people from writing on walls? Some years ago, I think at Sydney University, I read graffiti on the wall. It stated:

> A man's ambition must be small
> to write his name on a dunny wall

It seemed a fair statement. The question must be asked: Why do people write on walls? Dogs urinate on fence posts to mark out their territory. I presume the graffiti writer is writing a variance on the theme "I exist." They are trying to prove they exist. In the depersonalising world in which we live advertisers can give you messages and if you are somewhat dispossessed you get strength from your gang, and by using graffiti you are reaffirming each other's presence. I wonder whether anyone has looked at the psychology of people who do this writing. In my view it seems to be about alienation. Perhaps we should have some venues where people could legitimately display their spray can art, and where one could acknowledge the contribution and talent of those people. If such an area were defined perhaps the amount of spray can graffiti would be lessened.

I draw a distinction between graffiti art—which is generally done by spray cans, has a certain genre, comes from New York and has a certain type of lettering—and a tag, where somebody simply writes their name in stylised letters. Tags are mostly done with textas or writing instruments, but not with spray cans. The tags are a problem in a lot of places that do not relate to spray cans. Generally spray cans are not used for tags but for art, or what is considered art by those who do it. Some councils have provided spaces for graffiti artists to do their thing, and Marrickville council is one of them. I do not think there is any hope of stopping people writing with textas in phone boxes and public areas, and I do not suppose that even this Government would suggest banning textas to stop that. The Government should think a little more deeply about why people write their names as tags, and what alternative there could be. Somebody at least thinks about why dogs bite postmen and what methods one might use to stop dogs biting postmen. So the problem is examined holistically.

Can we analyse this problem holistically and do we see any evidence that the Government ever does so? This is the extraordinary thing about this Parliament. We never have any serious, research-based discussion or any indication that the issues have been seriously considered by the Government. Perhaps the psychology of the people writing the graffiti might be considered, rather than the banning of spray cans, especially given that many of the problems relate to the tags done with textas. Perhaps the Government should think of that. I should record that as I have been making my contribution I have faced an endless tirade of interjections, which I have not acknowledged. There seems to be a real problem with thinking about issues in a sensible way or having any evidence base for the legislation we pass. I will not oppose this bill, because I do not think there is much point, but it says something about the way the Government thinks.

**Reverend the Hon. Dr GORDON MOYES** [4.05 p.m.]: On behalf of the Christian Democratic Party I speak to the Summary Offences Amendment (Display of Spray Paint Cans) Bill. The object of the bill is to

amend the Summary Offences Act 1988 to provide that the retailer selling spray paint cans must not display the cans in any part of a shop unless the cans are properly secured. Recently I took a walk through several large shopping complexes where spray paint cans could be sold. I discovered that the large stores, namely Kmart, Woolworths and the like, were obedient unto the law and had the spray paint cans locked away behind glass-fronted display cabinets and so on. However, the cans were sold quite openly off the shelf in a number of $2 shops such as the one entitled Go-Lo and others. Those spray paint cans were not under lock and key, and neither were they in a locked cabinet. I understand there may be some loophole in the law for spray paint cans that are at end of stock. Spray paint cans can also be purchased by anybody who has access to an online computer, and they can be purchased in bulk by the box load. Obviously, these are ways of circumventing the law.

The act of graffiti and graffiti itself should be viewed with disdain and contempt. I certainly will not go into the remarkable psychological insight of dogs that the Hon. Dr Arthur Chesterfield-Evans just gave us. I do not endeavour to take a simplistic view on this issue. I simply point out that graffiti is a manifestation of the angst that graffiti artists often feel, and can often be a reflection of wider problems in society. Graffiti is important to someone who has an interest in archaeology, as I do. For example, I have studied in the Roman catacombs what is known as graffiti. Right across the ancient Roman and Greek worlds graffiti was one of the most important aspects of coming to understand the life of ordinary people in the days when they could not afford someone to chisel their name in marble. However, with this in mind, I am of the view that the use of facilities for these purposes at high cost to the taxpayer should be eliminated. If people seek to express themselves by spraying graffiti, they must take into account the notion that we should all consider ourselves as stewards of public facilities, for the good of the public as a whole.

I remember some years ago when I was anxious to work with street kids who were living on the streets of Sydney. I opened a place called Street-Smart, right in the heart of the theatre district at the corner of George and Liverpool streets. I wanted to work in a way that I could get young street kids to come in off the street. The way to do that was to remove the entire shopfront and allow people to walk in and out, and provide them with food, clothing, and a place to sit and watch DVDs and so on. To show that they were welcome I contacted State Rail and found a number of graffiti artists who were at that stage on parole or probation. I approached them with the offer of a hired job to cover our building entirely with graffiti so the street kids would feel at home. It was a magnificent job. It worked well and the street kids really felt at home. Graffiti to them was a way of saying they belonged; they were accepted.

The bill provides an additional regulation to the existing repertoire of legislation that seeks to mitigate the incidence of graffiti in our communities. The Summary Offences Act lists a number of offences in this sphere of regulation, which include banning the sale of spray paint cans to juveniles; damaging or defacing property with spray paint, whether it is art, tags or just a name; and the possession of a spray paint can with intent. The regulations have not been entirely effective, because the incidence of graffiti is still alive and apparent on private and public infrastructure. For example, during 2004-05 RailCorp spent $2.3 million removing graffiti from trains.

As I have said, the incidence of graffiti in our communities is demonstrative of issues on a deeper societal level. However, I fear that the effect of this legislation will be similar to measures to enclose sharp implements within cabinets in retail stores. Although minors cannot access and must not carry sharps, the incidence of stabbings within our communities is still of concern. If one source of supply is not available, people with intent to inflict harm or injury will look for other means to obtain the desired implement. For example, automatic rifles were taken out of circulation in large numbers when they were confiscated or bought under the gun buyback scheme. However, they have been replaced by automatic pistols and handguns as the chosen article to commit offences.

The purpose of the legislation is to reduce the theft of spray paint cans. The Government considers that a concomitant reduction in the amount of graffiti in the community will ensue. I do not believe the legislation will eradicate graffiti in the community, but it will reduce a significant amount of it. The bill proposes that spray paint cans be properly secured, either displayed in a locked cabinet or within or behind a counter, so that members of the public cannot gain access to the cans without assistance by a retailer or employee. I see a problem with the advent of two-dollar shops. People will not go to Coles, Kmart or Woolworths and pay $11 for a can of paint that is behind a locked glass cabinet when they can go to a shop further down the mall and pay $2 for a can of paint off the shelf.

The Premier announced the establishment of the new Anti-graffiti Action Team to drive down the incidence of graffiti on trains, public transport infrastructure and other community facilities. Obviously we

support that measure. The Government set up Operation Chalk in order to eradicate graffiti from railway stations, stabling yards, commuter car parks and the rail corridor. As a result of this operation, from October last year to date, 24 people have been arrested, 300 charges have been laid, and two well-known vandalism crews have been disbanded. The legislation, which goes hand in hand with an education campaign and other government programs, will combat graffiti in our communities. I do not believe it will solve the problem, but it is a step towards a solution.

When I was undertaking an archeological study of the Roman catacombs I came upon an interesting piece of graffiti dating from about 350 AD. A person had carved into the soft tufa "Some Celts were here". A person of Irish or Scottish origin had visited Rome and wanted to leave a tag. That is an interesting sidelight in history because it gives us some information about migration patterns and pilgrimages. Someone left behind a note that he hoped others would remember him by—and they have.

**The Hon. CATHERINE CUSACK** [4.14 p.m.]: I commend Reverend the Hon. Dr Gordon Moyes for his contribution. It contradicts the remarks of the Hon. Dr Arthur Chesterfield-Evans, who suggested that honourable members were not debating this matter in an intelligent or researched way. Reverend the Hon. Dr Gordon Moyes' remarks about graffiti in times before the birth of Christ show that the Parliament does draw on a great deal of research during debate. In my contribution I have drawn on research into the extent of the graffiti problem that is plaguing New South Wales. I take particular interest in this matter because graffiti crime is overwhelmingly committed by children and is associated with gangs or children in groups. Although it is a minor crime compared with assaults and property break-ins, our failure to deal effectively with minor crime greatly diminishes our community amenities. Young people do not leap straight into serious crime; they start by committing minor crimes. All honourable members should be interested in constructive solutions to this problem, for the sake of the victims and the young people involved.

Unfortunately, New South Wales is experiencing a massive increase in the amount of graffiti crime. For some time my colleague the shadow Minister for Transport, Mr Barry O'Farrell, has commented on a State Rail record of a 300 per cent increase in graffiti crime from February 2005 to February 2006. In February 2006 more than 41,000 graffiti hits were found in trains. That is a disgraceful figure. It compares with 10,240 hits recorded in February 2005. As Mr O'Farrell has said, since 1997 the Government has made announcements and launched a media campaign about its initiatives to deal with the problem. The Government has announced projects such as the Graffiti Solutions Program, the Graffiti Reference Group, the Graffiti Solutions Task Force, and the Graffiti Strategy Task Force. More recently the Government has announced the Anti-graffiti Action Team and the Rail Vandalism Task Force. The end result of all these initiatives has been a 300 per cent increase in graffiti crime. Clearly, the initiatives are not working.

As to the overall figure of reported graffiti incidents, since the Government was elected there has been a net increase of 88 per cent in the amount of graffiti crime. A review of the number of graffiti incidents recorded by NSW Police in the past five years shows that 7,061 incidents were reported to police in 2000. The number of reported incidents increased to 9,094 in 2005. That is a huge increase. Criminologists are concerned that an increase is occurring even though it is an underreported crime. As was said by a previous speaker, many people have given up reporting this form of crime. I will highlight the report and other research later. The age of offenders indicates that the crime is committed overwhelmingly by children. Two-thirds of the offenders who were identified by police but not necessarily charged were under 18 years of age. More than half of them, indeed the vast majority, were male.

A report compiled by the Bureau of Crime Statistics and Research on New South Wales Children's Court statistics shows that despite a massive surge in graffiti crime, the number of persons appearing before the courts or being charged with graffiti offences is low. As I said, in 2000, 7,061 incidents of graffiti were reported. In 2001 three people were brought before the courts charged with the crime. In 2004, which is the most recent year of the statistics, 6,340 incidents were reported, 14 young people were brought before the courts, and 11 were convicted. They are very low numbers. The largest number of recorded graffiti incidents occurs on educational premises. Any attack on a school is a particularly bitter event. I understand that offenders with a troubled background target schools and motor vehicles. Unfortunately, primary schools are a major target.

I have figures showing that in 2004 principals reported 1,965 graffiti incidents, and that that escalated to 2,771 incidents in 2005. These are reliable figures because school principals are required to report graffiti attacks. They indicate that in 2004-05 there was a 30 per cent increase in attacks. These statistics reinforce the information all honourable members are getting from the community—that is, there has been an explosion in graffiti crime.

Research undertaken by the Bureau of Crime Statistics and Research [BOCSAR] indicates that graffiti offences are most likely to be committed on Friday nights between 6.00 p.m. and 9.00 p.m., on Friday afternoons between 3.00 p.m.—I presume when school gets out—and 6.00 p.m., and on Thursdays between 3.00 p.m. and 6.00 p.m. The annual figures indicate that rather than occurring during school holidays, which one would expect, the peak in graffiti crime occurs in the winter months. That suggests an element of boredom. That is no excuse, but there is a clear link.

The Minister referred to the legislation that was the forerunner to this bill. I point out that it was introduced and debated in 2002. However, the Government was required to distribute an education pack, which delayed proclamation by about a year, and it came into effect in 2003. That legislation, to which Reverend the Hon. Dr Gordon Moyes referred, prohibited the sale of paint spray cans to minors. My thesis is that this Government performs stunts in this area to attract publicity rather than takes effective action. A measure of that is the failure to achieve a reduction in the level of crime and resolved cases. It is worthwhile to note that not one person has been charged and brought before the courts for illegally selling a can of spray paint to a minor under the 2003 legislation.

**The Hon. David Clarke:** Not one person?

**The Hon. CATHERINE CUSACK:** Not one person since the legislation was proclaimed in 2003. The Government has had four years to deal with this issue. The legislation, which was touted as the great solution, was passed in 2002. Front-page stories related how the Government was going to solve the graffiti problem. Unlike the Hon. Arthur Chesterfield-Evans, I cannot bring myself to describe graffiti as art; it is vandalism, plain and simple. I cannot understand why the Department of Education and Training conducts taxpayer-funded programs to teach aerosol art. That skill is useless because it is impossible to imagine any legal way of demonstrating it. These taxpayer-funded programs are doing nothing to deter graffiti crime. It must be stamped out; it is not art and it cannot be channelled.

Wilcannia reputedly has a high crime rate but, surprisingly, there is no graffiti in the town. Spray paint is not sold in the area and young people cannot access it. The school reported a problem with children using a texta pen to write on the walls, but that was stamped out immediately. There is no question that if offenders do not have access to spray paint they cannot commit graffiti crime. I find it interesting that there has been not one prosecution under the 2003 legislation. That undermines the Government's credibility on this matter. New section 10D (3) provides:

> The regulations may provide that this section does not apply to or in relation to any specified class or description of spray paint can.

That is clearly designed to exempt certain spray paint cans. The Minister stated in his second reading speech:

> The exemption provision will allow spray paints that are not used for graffiti to be excluded from the bill's operation, if this is considered appropriate.

I do not know how the Government can determine which can of spray paint will be used to commit a crime and how that provision can operate effectively. I do not understand it and I question its validity. I have no idea what the Government intends to exempt, because by its very nature spray paint can be used to damage property. Perhaps some legal mind has found a way of defining a can of spray paint that cannot be used in that way. The Opposition has emphasised that if the Government turns a blind eye to minor crime, ignores what is going on and does not intervene to deal with it, it will escalate to more serious crime. The *Daily Telegraph* of 1 June 2005 contains an article entitled "Teens counselled after graffiti spree", which states:

> Three 14-year-old boys will receive counselling after going on a $50,000 graffiti rampage in northwest Sydney.
>
> The trio caused extensive damage to a number of businesses, homes, a local church and even trees in Castle Hill over two consecutive weekends in May.
>
> Because it was the boys' first offence, they weren't formally charged, instead ordered to have counselling from a trained mediator.
>
> Businesses on Cecil Ave and apartments on Hume Ave were targeted as well as buildings on Old Northern Rd and Showground Rd, including the Castle Hill Baptist Church.
>
> Every part of the walls and windows was daubed, with the chief markings being tags and racial slogans.
>
> The attacks were the latest in a growing problem in the Hills District since the start of the year.

Ignoring this problem, offering counselling, issuing cautions and imposing community service orders that are not properly supervised are not effective ways to deter this type of behaviour. These kids are under 15 years of age. The figures indicate a major increase in graffiti offences committed by children under the age of 14. These children have too much freedom, too much time on their hands and their parents are not properly supervising them. They may be suffering other family problems that need attention and they may not have access to appropriate support from the Department of Community Services. It is not natural for three 14-year-olds to roam around Castle Hill and to commit such widespread graffiti crime. It beggars belief. Counselling does not resolve the matter. Honourable members know that more serious crimes will be committed. Leaving it at that is negligent and it is inevitable that the incidence of graffiti crime will continue to increase.

The Department of Juvenile Justice's community-based officers deserve commendation. The department has a large number of officers who are responsible for supervising community service orders, attending court with young offenders, writing background reports and enforcing bail and parole conditions. I have never met a team of people more committed to adolescents. It is a great shame that the Department of Community Services has no equivalent team. The Department of Juvenile Justice is fortunate to have this experienced team that has enormous credibility in the community. That credibility assists officers in implementing planning for young people because other service providers trust them. However, there is not nearly enough of them. In north-west New South Wales, which extends from Taree to New England and out to Moree, the department has between 8 and 12 staff, including management, clerical and specialist staff. It is ludicrous to imagine that that number of people can effectively supervise these orders. They need to give priority to the more serious crimes and they do not have the resources to deal with graffiti crime. That is a great shame.

If any officer from the Department of Juvenile Justice is reading my speech I refer that person to the New South Wales Audit of Expenditure and Assets report, which was released in February by the Treasurer. In particular, I refer to page 20, chart 5, which deals with governance and accountability. I refer to the chart of actual less budgeted expenses. The chart and text on that page explain why the Government is having such a struggle. It shows how this Government, in spite of screwing down on people in the work force who have an enormous job to do and who are being asked to be more and more productive, has no discipline when it comes to its resources and it continues to blow its budget by between $1 billion and $2 billion a year. That is why the community-based area is sadly underresourced. As a result, crimes such as graffiti are spiralling out of control.

I urge the Government to rethink its priorities in this regard. It is a case of another day in Parliament, another law being passed and another media announcement that we are cracking down on graffiti. If we do not turn words into actions nothing will change and the problem will escalate. The Government has been in office for the past 12 years, but in our experience of this Government we know that it will not learn anything from this. Crime will continue to spike and go out of control, and the Government will continue to answer questions with press releases and tough language. People are hurting and they have gone past the point of believing what they read in the papers. This bill needs to be backed up by action. As my colleague the Hon. David Clarke said, the Opposition does not oppose this bill but believes it is only a very small part of what needs to be done to properly tackle the problem.

**Ms LEE RHIANNON** [4.31 p.m.]: The Greens do not oppose the Summary Offences Amendment (Display of Spray Paint Cans) Bill. Graffiti requires a range of responses. The criminal response is in place with this and many other pieces of legislation, but we also need a positive response. Unfortunately, it is rare for the Government and the Opposition to take a constructive approach to young people. I am sure if people looked into their hearts they would recognise that each generation needs to have, and has a right to find, its own expression. Clearly, boundaries are needed and that is often when the older generation comes into the picture. Just rejecting graffiti out of hand cannot work, whatever one's perspective is on graffiti.

Not all graffiti is destructive or a criminal act, even in New South Wales with all its draconian law and order measures. For those graffiti acts that do break the law, rather than go off on a witch-hunt for criminals, it would be wise to examine why young people are attracted to graffiti. The various responses to graffiti seem to range from zero tolerance and instant removal through to the provision of legal sites. As we listen to some pretty hard-core responses to graffiti, it is worth remembering that there are many legal places for graffiti that are assisted by local government. It is disappointing and disturbing that we did not hear any comment from the Opposition or the Government on the positive aspects of graffiti, of which there are many.

The Hon. Catherine Cusack even went so far as to say that graffiti is not art. I wonder whether she has walked along the promenade at Bondi Beach. I refer to a particular piece of what many people would call

graffiti on a wall—it is a most moving dedication to the Bali bombing victims. That piece of graffiti has been left on the wall longer than others. Another section of that graffiti wall displays a most important message about safe sex and using condoms. People who work in that field say that an effective way to get that message across is to put it in a language and an art form that young people relate to.

**The Hon. David Clarke:** It is not art when it is done on other people's property against their wishes.

**Ms LEE RHIANNON:** I am not talking about that. If the Hon. David Clarke were listening to my speech he would realise that. At the beginning of my contribution I spoke about the different forms of graffiti. My point now is that after listening to many of the contributions of honourable members I am disturbed by the aim to just wipe out graffiti overall. Mick Jones used to be a youth worker with Wollongong City Council and he did a great deal of work with young people. He made some important comments that I believe the decision makers who bring forward legislation about young people should take on board. Mick helped create and monitor a legal graffiti wall at Wollongong City Council's youth centre. He also worked to get graffiti artists employed in the creation of legitimate or commissioned murals. He provided a cultural and historical context for graffiti art and explained the elements and etiquette of graffiti art.

Mick argues that graffiti art provides young people in western culture with a much-needed outlet for safe, non-violent self-expression. In fact, when you talk to people, such as Mick Jones, who work with young people on the ground they will give you an important message: graffiti can help skill up many young people so that they develop skills and end up with meaningful, long-term employment. The experience of Wollongong City Council has been most useful. The council collaborated with its own art gallery to commission the creation of a series of aerosol murals on the walls of the Wollongong Art Gallery building. I refer also to the Graffiti Traineeship Grant Scheme, which was established to divert young people from involvement in illegal graffiti by providing artistic and training opportunities in local communities.

The Greens urge the Government to support this approach to graffiti and not just take a hard-core law and order approach. We believe that the concern about illegal graffiti, as expressed in the interjection by the Hon. David Clarke, could be handled in a much more constructive way. I argue that it could be reduced if more constructive approaches were taken to working with young people. Unfortunately, the rights of young people and children are often the last consideration when respective levels of government address graffiti and young people. A rights-based framework is needed. The experiences of young people must be valued and we need to foster a community where diversity is valued. I am not suggesting that the Greens support the vandalism of people's homes. However, we need to recognise that there is artistic expression in graffiti. Working with young people would be the most successful way to counter the negative aspects of graffiti.

**Reverend the Hon. FRED NILE** [4.36 p.m.]: I support the Summary Offences Amendment (Display of Spray Paint Cans) Bill. I shall add some thoughts that, in many ways, are totally opposite to the views expressed by the Greens, which is to be expected. There is widespread concern in the community about graffiti. I believe that widespread graffiti on walls, buildings, posters, train carriages and so on indicates a breakdown of law and order. I believe that it is a symptom of a sick society and that it is a most serious development. Healthy societies do not have graffiti. There has been a breakdown of law and order in New York, Los Angeles and other cities around the world.

The Government should do all it can to prevent graffiti in the first place and have it removed rapidly so the perpetrators receive no satisfaction. For example, some gang members could say, "Here is our graffiti and it is up there now, today, tomorrow, next week, next month." They look at it with pride, thinking they have been able to beat the system. I have noted a most serious development in recent days as I have driven from my home to Sydney. I refer to graffiti on road safety signs. Other honourable members may have seen such graffiti, but I have never seen it before. It is a serious matter because it makes the sign difficult to read; there is a lot of scribble over the instructions on the sign. Again, someone is saying, "I can do this. I am against society, its rules and its laws." Such people get some devious pleasure out of their actions.

I am not against young people doing artwork. Indeed, it should be taught in our schools and they should be encouraged to use those skills in artistic ways through council programs. They should not be using spray cans on walls, because that leads them down the wrong path. They should be taught true art through an appropriate outlet. The Government should not merely legislate to have these cans locked away, but should consider whether the cans should be sold in retail outlets. I believe their sale should be limited to wholesalers or industrial outlets such as vehicle repair shops, which legitimately require such products. They should not be made available to the wider community because of the extensive damage they cause.

Widespread graffiti vandalism changes the atmosphere of suburbs; it discourages those who want to uphold law and order and it encourages lawbreakers. What commences as a minor graffiti offence may progress to stealing of motor vehicles. Even in Hospital Road outside Parliament House one or two cars are stolen or broken into each week, as evidenced by the pile of shattered glass left on the road. A reduction in graffiti will produce a healthier climate for society. I support the Government's initiative, although belatedly, of the graffiti solutions program and the graffiti community service orders clean-up scheme. I congratulate the Government on banning the sale of spray cans to juveniles and increasing the penalties for damaging or defacing a property with spray paint and possession of spray cans with the intent. I commend it for ensuring that spray cans are locked up so that only people over the age of 18 years have access to them. However, I do not believe that the bill goes far enough and I ask that the Government review the legislation to make its operation more clear cut.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [4.42 p.m.], in reply: I thank honourable members for their contributions to the debate. I shall respond to some of their comments. The Hon. David Clarke said that the Government does not have an anti-graffiti strategy. The Summary Offences Amendment (Display of Spray Paint Cans) Bill is part of a comprehensive strategy to combat graffiti. The solution proposed is 10 years old. Recently the Premier announced the anti-graffiti action team, which brings together experts from NSW Police, transport agencies, the Attorney General's Department, local government, the Roads and Traffic Authority, retailers and the paint industry to co-ordinate and implement new graffiti initiatives.

The anti-graffiti strategy includes increasing use of community service orders to make offenders repair the damage caused by graffiti vandalism; identification of the graffiti hot spots and stepping up of enforcement and surveillance, especially through closed-circuit television; assisting councils and government utilities to develop graffiti management plans targeting high graffiti environments; local councils accrediting community groups and volunteers to remove graffiti; and a $500,000 funding contribution from RailCorp to NSW Police to continue the work of Operation Chalk to crack down on graffiti vandals. These are just some of the strategies.

I turn to remarks made by the Hon. Catherine Cusack about why the Government would inconvenience genuine purchasers of spray paint cans. Retailers made this point during consultations and, as a result, the bill provides for exemptions. Similar laws in South Australia exempt paints that do not contain a pigment and are invisible when sprayed on a surface. Retailers have suggested that certain aerosols such as small craft paints and paints that create special effects, such as a suede look, are not used for graffiti and could be exempted. Further consultation will be carried out to decide on further exemptions. The Hon. Catherine Cusack also stated that the Government has not taken any action to prosecute retailers since 2003. Retailers face a fine of $1,100 for not complying with the legislation prohibiting the sale of spray paint cans to minors. In the first instance, the Office of Fair Trading will talk to retailers and remind them of their obligations, giving them an opportunity to comply before taking further action. Retailers are good civic citizens, who generally make an effort to comply when reminded of their obligations. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## JUDICIAL OFFICERS AMENDMENT BILL

### Second Reading

**The Hon. HENRY TSANG** (Parliamentary Secretary) [4.48 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.**

Last year I announced a review of the Judicial Officers Act 1986 in the lead up to the twentieth anniversary of the introduction of the legislation. The Judicial Officers Amendment Bill 2006 introduces changes arising out of the review of the Act.

The proposed reforms have been developed in consultation between the Heads of Jurisdiction and the Director General of the Attorney General's Department. Submissions to the review from members of the public, the legal community and other interested parties were considered as part of the consultative process.

Before proceeding to explain the provisions of the Bill, I would like to briefly remind honourable members of the background to the legislation and the important principles that continue to guide its operation.

The Judicial Officers Act, which establishes the Judicial Commission of New South Wales, remains one of the few pieces of legislation in the world that provides for a separate statutory body to examine complaints about judicial officers. The proposed amendments continue the progressive approach taken by the New South Wales Government in this area.

At the time it was introduced, the Act raised considerable disquiet amongst the judiciary and the legal profession. The legislation was seen as undermining judicial independence so that judicial officers would not be able to conduct their work free from improper pressure by executive government, litigants or other pressure groups.

These concerns have not eventuated. Judicial officers are generally supportive of the role of the Judicial Commission in complaints handling. The Commission's role in judicial education, research and the compilation of statistical and other information on sentencing for the information of the judiciary is greatly valued.

The scheme under the Judicial Officers Act gives participants in the justice system a means of raising concerns about the performance of judicial officers. At the same time the complaints handling provisions of the Act provide some protection for judicial officers against groundless complaints that may unfairly damage their reputation.

The proposed amendments promote greater transparency in the complaints handling process without compromising judicial independence.

The initiatives relating to impaired judicial officers will assist in ensuring that judicial officers are able to exercise efficiently the functions of judicial office. Equally, they may help prevent the loss of the unique experience and expertise accumulated by judicial officers during their years in office.

The proposals relating to impairment will also complement the new Judicial Assistance Program recently introduced by the Government. The Program, which is administered by the Supreme Court, provides a twenty-four hour counselling service for judicial officers and optional annual health assessments.

I will now outline the principal amendments contained in the Bill.

Under the Act, any person may complain to the Judicial Commission about a judicial officer. A complaint may relate to the performance of judicial duties, but may extend to matters bearing upon fitness for office. The Attorney General may also refer a matter to the Commission.

The Judicial Commission makes a preliminary assessment of all complaints that it receives.

The legislation provides that a complaint that is not summarily dismissed by the Commission must be classified as minor or serious. This distinction is artificial. The classification of a complaint as "minor" diminishes the significance of the concerns raised by the complainant. The Bill will therefore remove the requirement for complaints to be classified in this way.

The Commission may also establish a Conduct Division, which consists of a panel of three persons appointed by the Commission, one of whom is appointed Chairperson. Panel members must be judicial officers, although one may be a retired judicial officer.

The primary function of the Conduct Division is to examine and deal with complaints referred to it by the Judicial Commission. For this purpose the Conduct Division may initiate such investigations as it deems appropriate. The Division may also exercise the functions conferred by the Royal Commissions Act 1923 in conducting a hearing into a serious complaint.

The Bill updates a number of the provisions relating to complaints handling by both the Commission and the Conduct Division.

The amendments make it clear that, like the Conduct Division, the Judicial Commission may determine that a complaint has been wholly or partly substantiated. This will assist in clarifying the action taken by the Commission regarding a complaint.

The powers of the Judicial Commission will also be aligned with the Conduct Division, by allowing the Commission to expand the scope of an initial complaint to other matters arising in the course of dealing with a complaint. The Commission will also be able to deal with grounds for complaint disclosed against another judicial officer.

Currently, where the Conduct Division decides that a minor complaint is wholly or partly substantiated, it must either inform the judicial officer who is the subject of the complaint, or decide to take no action. Where a serious complaint is substantiated, the Division may form the opinion that the matter could justify parliamentary consideration of the removal of the judicial officer.

However, the Conduct Division does not have the power to refer a complaint to the Head of Jurisdiction. This means that where a complaint is substantiated, but does not warrant parliamentary consideration of the removal of the judicial officer, no significant action is taken regarding the complaint.

The Bill addresses this disparity and will give the Conduct Division the power to refer a matter to the relevant Head of Jurisdiction. The Head of Jurisdiction may either counsel the judicial officer or take such steps as the Head of Jurisdiction considers appropriate regarding the administration of the court for which he or she is responsible.

The Act provides that the Conduct Division must hold hearings concerning a serious complaint in public, unless the Conduct Division directs on certain grounds that the hearing take place in private. Hearings relating to minor complaints must be held in private.

Consequent upon the removal of the minor-serious distinction in the classification of complaints, the Bill provides that the Conduct Division will have a broad discretion to allow any hearing to be heard in public.

The Commission will be able to develop other guidelines to provide guidance for the members of a Conduct Division panel examining complaints and conducting hearings into complaints. Matters about which the Commission may make guidelines include:

- the manner in which the Conduct Division conducts its examination of complaints generally;
- the manner in which the Conduct Division conducts its hearings in connection with complaints and the criteria that should be considered when determining whether a hearing should be held in public or in private; and
- the criteria that the Conduct Division should consider when exercising its power to consent to legal representation for persons appearing at its hearings.

The Judicial Commission will also be able to develop guidelines regarding its own complaints handling procedures. The guidelines will also help clarify the complaints handling process for complainants and other interested persons.

The Conduct Division must provide the Governor with a report regarding its conclusions concerning a serious complaint. Where the Conduct Division finds that the complaint may warrant parliamentary consideration of the removal of the judicial officer, the report must be laid before both Houses of Parliament.

As is appropriate, a copy of the report must be furnished to the judicial officer concerned. However, there is currently no requirement to provide the complainant with a copy of the report. The Bill introduces a statutory obligation for the complainant to be provided with a copy of a report, once it has been tabled.

The proposed legislation introduces a number of groundbreaking provisions that will allow a Head of Jurisdiction to refer a judicial officer who may be suffering an impairment to the Judicial Commission, without the need for a complaint to be lodged.

At present, a judicial officer can only be requested to undergo a medical examination by the Conduct Division. Such a request may only be made in relation to a serious complaint and the members of the Conduct Division are of the opinion that the judicial officer may be physically or mentally unfit to exercise efficiently the functions of judicial office.

Where a Head of Jurisdiction refers a judicial officer who may have an impairment to the Judicial Commission, the Commission will have the power to conduct a preliminary examination. For this purpose, the Bill empowers the Commission to require a judicial officer to undergo a medical or psychological examination.

Where a judicial officer refuses or fails to comply with such a requirement, the Commission may then deal with the matter as a complaint.

Where a psychological or medical report does not indicate a problem, the Commission may summarily dismiss the matter. If the report reveals that the judicial officer has an impairment, the Commission will report to the relevant Head of Jurisdiction or refer the matter to the Conduct Division for further examination, depending upon the seriousness of the matter.

The Conduct Division may conduct a further examination. The Division will also have the power to dismiss the matter, report to the Head of Jurisdiction, or present a report to the Governor setting out their findings and opinion that the judicial officer's impairment may warrant parliamentary consideration of his or her removal from office.

In referring a matter to the Head of Jurisdiction, the Judicial Commission or the Conduct Division may make recommendations regarding steps that might be taken to manage the judicial officer's impairment. As occurs with complaints, the Head of Jurisdiction may either counsel the judicial officer or take such steps as are deemed appropriate regarding the administration of the court for which he or she is responsible.

The Bill contains a number of minor related amendments to the Judge's Pensions Act 1953 and courts legislation relating to leave without pay.

The Magistrates' Leave Determination provides that the Chief Magistrate may grant leave without pay to a Magistrate if good and sufficient reason is shown. Other judicial officers are not currently entitled to leave without pay.

A judicial officer may not have sufficient sick or extended leave entitlements to allow him or her to address emotional, mental health, alcohol or drug dependency, or family problems which may impact upon his or her ability to function in a judicial capacity.

It is therefore proposed to amend the terms and conditions applying to judicial officers to allow them to take leave without pay at the discretion of the relevant Head of Jurisdiction. The amendments in the Bill make it clear that leave without pay does not count for the purposes of the judges' pension entitlements.

Another proposed amendment to the Act will give the Judicial Commission an express power to enter into contractual arrangements for the provision of goods and services that have been developed in the exercise of its functions.

The Commission has been at the forefront of judicial education and research and has developed some innovative programs, such as the Judicial Information Research System, which includes online statistical and reference material designed to assist the judiciary.

The amendments will enable the Judicial Commission to market its accumulated expertise and intellectual property within New South Wales and elsewhere and to recover some of its investment in these programs.

The proposed reforms in the Bill are aimed at providing greater transparency in the handling and outcomes of complaints dealt with by the Judicial Commission. The initiatives aimed at assisting judicial officers who have an impairment will promote public confidence in the judiciary who, for many people, are the embodiment of the judicial system.

The proposed legislation will be commenced once the Judicial Commission has developed guidelines relating to complaints handling.

I commend the Bill to the House.

**The Hon. DAVID CLARKE** [4.48 p.m.]: Australia can well be proud of its legal, political and constitutional institutions. These institutions have provided our nation with a strong foundation and have been instrumental and pivotal in making Australia the democratic society that it is—a society where we have genuine freedom of the individual and respect for human rights. We have a legal system in which all are treated equally before it and none are above it. Our courts and judicial bodies have a high reputation throughout the world. I believe that the corruption that we see in courts in some countries is largely absent in this country. I believe that incompetence in our courts is largely absent as well.

I believe that our courts, on the whole, are free of political or other interference unlike, for instance, the courts that churned out so-called justice in the former Soviet Union, courts that operated as an extension of the political regime. The judges, magistrates and other officers who exercise judicial power have a reputation, on the whole, for competence, integrity, fairness and impartiality. On the whole, our courts operate in an admirable way, but it is also correct and important that justice not only be done but also be seen to be done, otherwise confidence in our judicial system, our judicial officers and in the decisions that they make will be shaken.

Therefore, we need to ensure that there always is openness and that our courts operate to a high standard. When incidents occur that reflect on the capacity of judicial officers to properly discharge their duties, public confidence is shaken, it is unsettling and it creates concerns amongst members of the public as to how they will fare should circumstances ever result in their involvement in court proceedings, civil or criminal. That is why the Judicial Officers Act was passed 20 years ago: to ensure that there was oversight of the judiciary by establishing the Judicial Commission of New South Wales to examine complaints about judicial officers.

As a result of recent cases were judicial officers were found to be, temporarily at least, unfit for service—as, for example, the recent case of a judge sleeping whilst exercising judicial duties on the bench—the Government has moved to try to restore the loss of confidence in our courts that has arisen in recent times. The Judicial Officers Amendment Bill, which is not opposed by the Coalition, amends the Judicial Officers Act 1986 to allow the head of jurisdiction, such as the Chief Magistrate or Chief Judge of the District Court, to request the Judicial Commission to investigate a judicial officer's suspected impairment. It allows the Judicial Commission to make a preliminary investigation and, if necessary, require the judicial officer to undergo medical psychological examination.

At present a judicial officer can only be requested to undergo a medical examination by the Conduct Division of the Judicial Commission. Under this bill, where a judicial officer refuses or fails to comply with a requirement to be examined, the commission may deal with the matter as a complaint. However, where a medical psychological report does not indicate a problem, the commission may summarily dismiss the matter. The bill also allows the commission, if satisfied that there is an impairment that would prevent a proper discharge of judicial office, to present a report to that effect to the Governor, setting out the commission's findings and opinions that the judicial officer's impairment may warrant parliamentary consideration or his or her removal from office.

The bill clarifies the power of the Judicial Commission to enter contractual arrangements, and extends the definition of "judicial officer" to acting judicial officers. The Judges Pension Act 1953 is amended so that leave without pay is not calculated as part of a judge's service for pension entitlements. The bill has been developed in consultation with the heads of jurisdiction and the Director General of the Attorney General's Department. Both the Law Society and the Bar Association have been consulted, and the Coalition, as I said earlier, does not oppose the bill's passing. However, there is concern within the Opposition that the bill does not go far enough. Clearly, the process as envisaged under the Judicial Officers Act 1986 has not been working as well as it should. It has been effective in many ways.

The recent case of a judge who continually fell asleep whilst on the bench certainly did not inspire confidence that all was well in our courts, nor did the assurance that he had been successfully treated for his

problem when it turned out not to be the case at all. The suggestion has been made that there needs to be greater parliamentary involvement and oversight of the problem, possibly through and oversight committee as is the case with the Police Integrity Commission, the Ombudsman and the Health Complaints Commission. Possibly we need to consider some lay representation of an appropriately qualified person to sit on the commission, in a way that such representation is currently used in proceedings involving the conduct of solicitors and barristers.

In any event, the Opposition will be carefully monitoring the workings of the Judicial Officers Amendment Bill. We will be watching to see that it does, in fact, prevent a repetition of some of the recent incidents involving judicial officers that have served to heighten concern in members of the public. We will be watching to see whether the process has now been fixed to ensure that lapses of competency, through medical or other circumstances, will be dealt with in a way to restore full confidence in the judiciary of this State. It is to be hoped that this bill will operate to ensure that the Judicial Officers Act 1986 lives up to its purposes—certainly more so than it has served to do in the past. Only time will tell whether the Government has finally got the process right. For the sake of justice we hope that it has.

**Ms LEE RHIANNON** [4.53 p.m.]: The Greens support this bill, the objects of which are to amend the Judicial Officers Act 1986 so as to make further provision with respect to the handling of complaints against judicial officers and the investigation of judicial officers who are suspected to be suffering from impairment; to amend the Judges' Pensions Act 1953 so as to exclude leave without pay from a judicial officer's pensionable service; and for other purposes. The Greens understand that complaints against judicial officers are sensitive issues. That is because the Parliament must find a balance between respecting the rights and interests of the judges who have been accused and may suffer mental or physical incapacity versus the entirely appropriate expectations of our society to have a competent, impartial and decisive judicial system.

The Parliament must also be careful not to intrude into the principle of judicial independence. The bill goes some way to meeting these objectives. The Greens support the recent review of the Judicial Officers Act and regard its 20-year operation as an appropriate time to assess its achievements. Instances where judicial officers have stepped down or have been removed from their positions because of incapacity are extremely rare in New South Wales. A significant factor that results in this very low level of problem is the serious and professional manner in which the vast majority of the State's judicial officers approach and discharge their responsibilities. In fact, there has been only one instance where the Judicial Commission has reported to Parliament with a recommendation that a judicial officer be dismissed because of incapacity.

There has, however, been a small number of instances of judges from the District Court and Supreme Court retiring after their incapacity to function as a result of health issues had been revealed. These comments are not aimed at denigrating either the Judicial Commission or our judicial officers but are aimed to provide a critical analysis of the work of the commission in the context of this bill. These amendments to the Judicial Officers Act will strengthen the capacity of the Judicial Commission to energetically and effectively investigate and handle complaints. Therefore, the Greens support them on principle.

The amendment will give the Conduct Division of the Judicial Commission the power to refer a complaint to the head of a court. That means that where a complaint is substantiated but does not warrant parliamentary consideration of the removal of the judicial officer, the head of a jurisdiction may either counsel the judicial officer or take such steps as the head of jurisdiction considers appropriate regarding the administration of the court for which he or she is responsible. This initiative is appropriate and overdue. The commission will also be able to develop other guidelines to provide guidance for the members of a conduct division panel examining complaints and conducting hearings into complaints. The Judicial Commission will also be able to develop guidelines regarding its own complaints-handling procedures. We support these initiatives.

That said, the Greens believe that it may be appropriate for this bill to go further to allow community members to be appointed to the Judicial Commission. In that regard, we take the unusual step of agreeing with the sentiments of Opposition member Mr Andrew Tink, who said in the Legislative Assembly, "The time has come for a community representative to be appointed to the Conduct Division of the Judicial Commission." Overall, the Greens support this legislation and see it as a further modernisation of the accountability mechanisms that judicial officers in New South Wales are required to work with, and we look forward to further reform in the future.

The Greens believe that it is also appropriate for the process of judicial appointments in New South Wales and how those appointments impact upon and reflect gender equality to be reconsidered. I had intended

to move an amendment to this effect, but I have been advised that the amendment is outside the leave of the bill. That is disappointing, but I accept that advice. However, if required I will move such an amendment. I would certainly urge the Government to introduce affirmative action legislation to address the inequality that exists on this State's court benches. Judges appointed by the government of the day continue to be overwhelmingly male, despite women representing more than 50 per cent of the population. A cursory glance of the latest New South Wales Law Society almanac reveals that gender inequality is alive and well on this State's judicial benches. Even though 42 per cent of solicitors are women, relative gender equality drops suddenly for barristers with 15.28 per cent of barristers being women, and even more for Queens Counsel and Senior Counsel, in relation to which only 3.97 per cent are women.

The High Court has one female judge to six male judges. The New South Wales Court of Appeal has two female judges to 10 male judges. The New South Wales Supreme Court has an appalling four female judges to 31 male judges. The New South Wales District Court has 15 female judges to 57 male judges and the New South Wales Magistrates Court has 34 female magistrates and 90 male magistrates. From that information it is clear that women are under-represented in the State's judiciary. I say again that I hope the Government will bring introduce legislation to address this inequality. I hope too that it will not be necessary for the Greens to move an amendment to ensure affirmative action in this State.

**Reverend the Hon. Dr GORDON MOYES** [4.59 p.m.]: I speak on behalf of the Christian Democratic Party in debate on the Judicial Officers Amendment Bill, the object of which is to amend the Judicial Officers Act 1986 to implement changes arising out of the review of the Act. When the prospect of introducing the Judicial Officers Act was first touched upon the judicial and legal profession voiced many serious concerns about it. This was because one of the central aims of the legislation was to provide litigants with an avenue to make complaints about judicial officers. It was seen that judicial officers could feel pressured to work in such a way—at the risk of being the subject of a complaint by litigants, pressure groups or the Executive Government, which could use their position to influence decision making—that their outworking of their functions could be unnecessarily impeded.

It is 20 years since the introduction of the Judicial Officers Act. The fears that were expressed back then have not been realised. The judicial profession as a whole has somehow remained untouched and untainted by comments generally directed against the Executive or legislative arms of government, supporting the principle that the judiciary must retain its independence. The Judicial Officers Act established the Judicial Commission, which is the vehicle through which many of the Act's provisions are implemented. This commission is part of the judicial arm of the Government and is also an independent statutory corporation. It consists of the heads of jurisdiction of the State's five courts and the President of the Court of Appeal, together with four members appointed by the Governor of New South Wales. Of the appointed members, one is a legal practitioner and the others are outstanding members of the New South Wales community at large. The president of the commission is the Chief Justice of the New South Wales courts.

Apart from dealing with complaints made against judicial officers, the commission endeavours to assist the judicial system to achieve consistency in sentencing, and provides continuing education and training for judicial officers. The Judicial Commission's research function, outworked in one way through the Judicial Information Research System, is widely acclaimed as an excellent source of information for judicial officers, legal professionals and other folk interested in this field of study—not the least of which are members of this House. As time has passed the role and function of the Judicial Commission has been recognised as a pivotal and inherent part of the judicial system. Clearly, the commission's ability to investigate complaints made against judicial officers allows for a greater degree of transparency than would otherwise be the case. The merit and success of the commission has inspired overseas jurisdictions to set up similar instrumentalities to increase accountability within their judicial systems. This should be applauded. It may be said then that the measures provided in the Act have been a success on the whole. Judicial officers on the whole support the role of the Judicial Commission in complaints handling.

This bill amends the Judicial Officers Act 1986 in a number of ways. The first set of amendments relate to the complaints handling process within the Judicial Commission. These amendments seek to promote greater transparency in this process without compromising judicial independence. I shall refer to some of the major proposed provisions within this context. The regimen for complaints handling within the Act allows for any person to make a complaint against a judicial officer. The complaint may refer to the performance of the officer's duties, but it may extend to matters bearing upon fitness for office; for example, issues dealing with drug dependency and ill health would come within the latter category. The Attorney General may refer a matter to the commission.

The commission makes a preliminary assessment of all complaints it receives. A complaint that is not summarily dismissed by the commission must then be classified as minor or serious. The bill makes amendments to the legislation to rid it of the distinction in classification. It was felt that classifying a complaint as minor resulted in the complaint not been legitimised and in so doing it is likely that the complainant would feel hard done by when his or her matter was regarded as minor, and therefore he or she would feel alienated. The second set of amendments within the genre of complaints handling deals with what is known as the Conduct Division. Under the Judicial Officers Act, this division comprises three persons appointed by the commission, one of whom is appointed chairperson. All the members must be judicial officers and one must be a retired judicial officer.

The Conduct Division is responsible for dealing with complaints referred to it by the Judicial Commission and has the power to initiate investigations in cases that it sees as appropriate. The division also has the power to hear serious complaints fitting under the Royal Commissions Act 1923. Currently, the Conduct Division may make this type of assessment but a similar assessment may not be made by the Judicial Commission. The bill allows for the Judicial Commission to determine that a complaint has been wholly or partly substantiated. It is said in the second reading speech that this will assist in clarifying the action taken by the commission regarding a complaint. Under the Act, where a serious complaint is substantiated, the Conduct Division may form the opinion that the matter could justify parliamentary consideration for the removal of the judicial officer. This is a most serious event.

The bill allows the Conduct Division to refer a complaint to the head of jurisdiction. In cases in which a complaint is substantiated but in which parliamentary consideration of the removal of the judicial officer is not warranted, the bill will now allow the head of jurisdiction to take action. This action may consist of either providing counsel to the judicial officer or other steps as the head of jurisdiction sees appropriate regarding the administration of the jurisdiction for which he or she is responsible. The Act provides that the Conduct Division must hold hearings concerning a serious complaint in public unless the division directs that the hearings be held in private. Under the Act, matters considered minor in nature are heard in private. With the dissolution of the minor/serious dichotomy under the bill, the division will now have the discretion to decide whether a matter is heard in public or in private. Guidelines will be developed by the commission to provide guidance on the matters that should be considered when exercising this discretion.

Under the bill, the commission will also be able to make guidelines relating to its complaints-handling processes, allowing complainants and other persons to better understand the nuances of this process. In cases in which a serious complaint has been made, the Conduct Division must provide the Governor with a report outlining its conclusions on the complaint. When the division finds that the complaint may warrant parliamentary consideration for the removal of a judicial officer, the report must be laid before both houses of Parliament. The bill introduces a statutory obligation for the complainant to be given a copy of the report once it has been tabled in Parliament. The theme of the second set of amendments relates to the impairment of judicial officers. Judicial officers are not immune from the gripes and adversities that beset the common man. These amendments recognise that while the administration of the judicial system must be upheld when a judicial officer is suffering from an impairment, judicial officers must also be assisted in addressing that impairment. Hopefully, they might overcome the impairment.

Importantly, the amendments introduced by this bill will complement the new Judicial Assistance Program introduced by the Government. This Supreme Court headed program provides a 24-hour counselling service for judicial officers and optional annual health assessments. It would be of interest to find out how many times judicial offices access the services provided under this program. Under this counselling requirement, I presume complainants could refer to judges, magistrates or judicial officers who are suffering from deafness and therefore are inclined to mishear evidence, those who suffer from sleep apnoea and similar disorders such as those mentioned by the previous speaker, those who suffer from alcoholism or other drug-related abuse, or those who suffer from mental stress due perhaps to sexual immorality—which, honourable members will recall, led one prominent judge in New South Wales to commit suicide. We hope that all these issues can be dealt with by counselling and appropriate follow-up services.

The bill will allow a head of jurisdiction to refer to the Judicial Commission a judicial officer who may be suffering from such an impairment without the need for a complaint to be lodged. In cases when such a referral occurs, the commission will be empowered to conduct a preliminary examination, requiring the officer to undergo such medical or psychological examination or testing as required.

The bill also amends the terms and conditions applying to judicial officers to allow them to take leave without pay at the discretion of the relevant head of jurisdiction. The need for this amendment arose out of

recognition that a judicial officer may not have sufficient sick or extended leave entitlements to allow him or her to sort out problems arising within the sphere of personal life. Some additional time may be needed to resolve personal issues in a setting completely separated from that in which the exigencies of work may besiege the officer. The second reading speech in the other place emphasised that these:

> … initiatives are aimed at assisting judicial officers who had an impairment will promote public confidence in the judiciary who, for many people, are the embodiment of the judicial system.

Most judicial officers are older people and should be treated with respect because of their age and status. What is being suggested here is nothing more than what is normally extended to any chief executive officer or important person in private enterprise. The reforms in this bill have been developed in consultation between the heads of jurisdiction and the Director General of the Attorney General's Department. Submissions to the review from members of the public, the legal community and other interested parties were considered as part of the consultative process. I congratulate those who have been responsible for the introduction of the bill, and on behalf of the Christian Democratic Party I commend the bill to the House.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [5.10 p.m.]: I support this reasonable bill, which relates to the fitness of judges and builds on the framework already existing in the Judicial Commission, which, as pointed out by the Parliamentary Secretary in the other place, seems to have been reasonably successful. I note that psychological fitness and testing have been added to the types of medical examinations that may be required by the Judicial Commission. Such testing does not have to be requested by a complainant; it may be requested by the Judicial Commission itself. Interestingly, there must be an impairment or perceived impairment before such action is taken; even if no complaint is lodged, it is sufficient that the Judicial Commission perceives an impairment.

The fact that judges have to retire at age 70 is presumably a limiting factor to any age-related decline, but I wonder whether the fact they have to retire at 70 years of age is in contravention of the provisions of anti-discrimination legislation. I recall while working at Sydney Water a number of white-collar workers wanted to continue working beyond the age of 60 and a number of blue-collar workers wanted to work beyond the age of 65. Gerontologist and fitness tester from the University of Sydney Professor John Brotherhood and I devised a fitness screening test for all employees. We negotiated with the union and introduced the test with no objection from the union. As a result of that testing, which was conducted on all employees of Sydney Water, there was only one retirement. A number of people were redeployed and others stayed beyond the age of 65, although there were quite powerful disincentives for them to do so with their pension scheme.

It is a simplistic view that people retire at a certain age at which they are fit, and beyond that age they are unfit. I wonder whether people in exemplar professions, such as the higher ranks of the judiciary, should be able to work beyond 70 years of age and should be subjected, at a much earlier age, to regular medical checks, which comment on their health. Then the maintenance of their health becomes internalised. If that were to happen at the top end of society, one can only hope that it will permeate to the bottom end. Honourable members will be aware of the considerable amount of publicity nowadays about the obesity epidemic in our society. This is leading to a diabetes epidemic. The maintenance of health is extremely important; it is as important for those in the judicial system, particularly in their exemplar role, as it is for everybody else. That should be seriously considered if this legislation is re-examined. I do not have any amendments in that regard to propose today. Another desirable reform of the judiciary would be a more transparent process of appointment. That is not included in the bill either. However, the bill is a step in the right direction and I support it.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [5.14 p.m.], in reply: The Judicial Officers Amendment Bill 2006 updates the Judicial Officers Act 1986, which has now been in operation almost 20 years. The judiciary supports the amendments, which will provide improved complaints-handling procedures and introduce important new mechanisms for dealing with judicial officers who may have an impairment. The bill keeps New South Wales at the forefront of legislative reforms regarding concerns about the performance of judicial officers.

In response to the issues raised by Ms Lee Rhiannon I can say that the Government is proud of its record on judicial appointments. The percentage of female judicial officers has increased to unprecedented levels in New South Wales since 1995. The Attorney General and the Government are rightly proud of our record in appointing quality candidates—female and male—to the bench. I thank honourable members for their support for the bill, which I commend to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## CONVEYANCERS LICENSING AMENDMENT BILL

### Second Reading

**The Hon. HENRY TSANG** (Parliamentary Secretary) [5.17 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

I seek the leave of the House to incorporate the second reading speech in *Hansard*.

**Leave granted.**

The Conveyancers Licensing Act 2003 was passed by Parliament in May 2003 following a review of the 1995 Conveyancers Licensing Act.

The Act establishes a licensing scheme for conveyancers, and enables them to provide conveyancing services in competition with legal practitioners.

This has brought a number of benefits to consumers in New South Wales by expanding consumer choice, and by breaking the monopoly that solicitors previously held over conveyancing transactions.

The Government continues to support competition in the conveyancing sector, however, a number of amendments need to be made to the 2003 Act before it commences.

These amendments are primarily intended to make administration of the Act simpler and clearer, and are contained in the bill before the House today.

To place the bill in context, I think it would be helpful for me to provide honourable members with a brief summary of the 2003 Act's main provisions.

First and foremost the Act provides a licensing scheme for conveyancers. This ensures that only appropriately qualified, fit and proper persons are able to practise as conveyancers.

Secondly, it removes unnecessary restrictions preventing conveyancing businesses from incorporating, and thus provides for a corporation licence.

Thirdly, the new system tightens the supervision and control of employees and clarifies the responsibilities of licensees in charge of a conveyancing business.

The Act continues to provide for the keeping of trust accounts and records, and allows for Rules of Conduct to be prescribed in the regulations.

It also includes costs disclosure requirements for conveyancers, and provides for the resolution of costs disputes through the Consumer, Trader and Tenancy Tribunal.

And finally, the new Act provides a more balanced and effective disciplinary scheme for conveyancers, replacing the hybrid arrangement under which conveyancers are subject to both the Conveyancers Licensing Act and the Legal Profession Act.

Since the passage of the legislation much work has progressed on the range of administrative tasks necessary to ensure a smooth transition to the new Act.

This has included the development of draft regulations, rules of conduct and supervision guidelines, as well as the necessary administrative preparations for the new dispute resolution and disciplinary schemes.

During the course of preparing for the Act's commencement, it has become apparent that some minor but nonetheless important amendments are needed.

These amendments will ensure that the new framework will operate effectively in the interests of consumers and the conveyancing profession.

The main purpose of the bill before the House today is to clarify these largely operational matters regarding the Conveyancers Licensing Act, and, for several reasons which I will outline shortly, provide that legal practitioners, solicitor corporations, and incorporated legal practices cannot be licensed under the Act.

Other amendments contained in the bill seek to

- firstly, bring the provisions relating to disqualified persons into line with changes in the Property, Stock and Business Agents Act 2002 passed by the Parliament earlier this year
- secondly, to modernise and streamline the accounting scheme for trust money and reduce red tape for conveyancers and
- finally, to make several minor amendments to improve the Act's effectiveness in practice.

I will now turn to the provisions of the bill in detail.

The first set of amendments contained in the Bill seeks to clarify that the Conveyancers Licensing Act 2003 does not apply to conveyancing services provided by legal practitioners.

Under the 1995 Conveyancers Licensing Act still in effect, legal practitioners are "disqualified persons" and therefore not eligible to hold a conveyancer's licence.

The review of the 1995 Act considered, at that time, that the disqualification provisions concerning lawyers were unnecessary and were therefore not included in the 2003 Act.

As a result, it is now possible that a legal practitioner or an incorporated legal practice could obtain a conveyancer's licence under the 2003 Act, even though they do not need to do so in order to carry out conveyancing work.

Following further examination as part of the detailed planning necessary to commence the new Act, it has become apparent that the holding of a conveyancer's licence by a legal practitioner gives rise to several jurisdictional and operational issues.

If these are left unresolved it could cause significant problems for consumers, conveyancers, the legal profession, and the administering agencies once the new Act commences.

If legal practitioners and incorporated legal practices are able to be licensed under the Conveyancers Licensing Act, there would be no way for consumers or the regulators to know whether the Legal Profession Act or the Conveyancers Licensing Act applies to conveyancing work undertaken by them.

For example, if a legal practitioner is also licensed as a conveyancer, and they fail to account for trust money in relation to a conveyancing transaction, the question will arise as to whether the indemnity fund under the Legal Profession Act or the Compensation Fund under the Property, Stock and Business Agents Act is liable to meet any claim.

Similar confusion may arise as to which disciplinary or dispute resolution regime applies in the event of a breach or a costs dispute.

Consumers could be seriously disadvantaged by delays in processing their claims while such issues are sorted out.

And there is also the potential for lengthy legal disputes between legal practitioners, their clients and the regulators thereby undermining the effective operation of both the Conveyancers Licensing Act and the Legal Profession Act.

The bill addresses these problems by amending section 10 of the Conveyancers Licensing Act 2003 to ensure that Australian legal practitioners, solicitor corporations and incorporated legal practices are disqualified under the Act are therefore simply unable to obtain a conveyancer's licence.

When undertaking conveyancing transactions, legal practitioners, solicitor corporations and incorporated legal practices will continue to be covered by the regulatory scheme established under the Legal Profession Act 2004.

The bill simply ensures a clear administrative separation between that Act and the one applying to conveyancers.

I would like to stress that the disqualification of a legal practitioner from obtaining a licence under the Conveyancers Licensing Act has absolutely no impact on their entitlement to run a conveyancing business or to do conveyancing work.

They are still able to do so.

But that entitlement arises under their practising certificate issued by the Law Society, and the regulatory framework established by the Legal Profession Act.

The second category of amendments contained in the bill updates the licence disqualification provisions applying to conveyancers in line with recent changes to the Property, Stock and Business Agents Act.

In introducing those changes, I advised the House that because of the significance of property transactions to consumers and the handling of large amounts of trust money, it is imperative that high standards of probity apply to persons working in the property services industry.

Section 16 of the Property, Stock and Business Agents Act establishes several grounds for disqualifying people from holding a licence, and these provisions are duplicated in section 10 of the 2003 Conveyancers Licensing Act.

In light of the recent changes to the Property Stock and Business Agents Act it is appropriate that these be reflected and updated in the Conveyancers Licensing Act to maintain consistency.

The first of these clarifies the application of the disqualification provisions to a person involved in a failed company.

The current wording of section 10 (1) (b) of the Conveyancers Licensing Act disqualifies a person who is a "director or person concerned in the management of a corporation that is the subject of a winding up order or for which a controller or administrator has been appointed".

This wording does not cover a creditors' voluntary winding up or the appointment a liquidator.

The Bill replaces the current wording with the broader concept of a "director or person involved in the management of an externally administered body corporate".

This will capture a variety of situations where a company has been put into administration.

But it will not apply to a situation where a solvent organisation has been wound up voluntarily by its members.

A member's voluntary winding up occurs where a company is solvent and is being wound up because it is no longer needed by its shareholders as a structure through which they wish to conduct some part of their business affairs.

The next matter concerns the provisions which disqualify a director or person concerned in the management of an insolvent corporation at the time it enters into administration.

Section 10 of the Act does not currently specify a timeframe, and so a person may avoid disqualification by resigning shortly, indeed the day, before the appointment of an external administrator.

To address this, the bill provides that a director or person concerned' in the management of a company in the 12 months prior to it becoming externally administered should be disqualified.

Only actions taken by the person while involved in the management of the corporation will be considered.

The bill also amends section 10 of the Act relating to the ability for the Commissioner for Fair Trading to waive the disqualification of an undischarged bankrupt if satisfied that the person took all reasonable steps to avoid the bankruptcy.

This gives a licence applicant or holder the opportunity to demonstrate their financial responsibility and suitability to hold a licence on the basis that they made every effort to avoid the financial failure and protect the interests of others.

However, under the current provision in section 10 (1) (c) of the Act it is unclear as to when the Commissioner's discretion applies.

The bill makes it clear that the Commissioner needs to consider the steps taken by the applicant to avoid bankruptcy when financial difficulties first arose in the business, and not just the steps taken once bankruptcy, liquidation or administration have become imminent.

Under section 10 of the Act, the Commissioner's discretion to grant a licence to an undischarged bankrupt does not apply consistently to a director or person concerned in the management of a failed company.

There is no reason why this discretion should not apply equally.

The bill therefore amends section 10 of the Act to ensure that the Commissioner's discretion applies equally to an undischarged bankrupt and to persons involved in the management of an externally administered corporation.

A further amendment relating to disqualification on the grounds of bankruptcy or association with a failed company concerns employees of licence holders.

The current provisions are unduly restrictive and operate to prevent such persons from being employed by a conveyancer, even though they do not handle trust money in their own right and work under the supervision of a licensee.

The bill therefore ensures that a person is not excluded from being employed by a licence holder solely on the grounds of bankruptcy or association with a failed company.

The final provision in the bill concerning disqualification provisions provides that a person who has been the subject of serious disciplinary action under other fair trading legislation is prevented from holding a conveyancer's licence.

Suspension or disqualification is an indicator that a serious offence has been committed.

Accordingly, where disciplinary action has been taken by the Commissioner against the holder of an authority under other fair trading legislation, resulting in the person1s disqualification or suspension, the bill provides that that person should also be disqualified under the Conveyancers Licensing Act.

To ensure some flexibility and fairness in this provision, the bill provides that the Commissioner may ignore such a disqualification where it is appropriate in the circumstances.

The third main category of amendments contained in the bill relates to the requirements set out in Part 5 of the Act specifying how licensed conveyancers must deal with money they receive on behalf of others.

The bill aims to modernise the Act's approach to trust accounting, reduce red tape for conveyancers in administering their businesses, and more closely align their responsibilities with the requirements applying to property agents.

Currently, the Conveyancers Licensing Act separately defines "trust money" and "controlled money", and there are separate requirements on conveyancers for investing and accounting for these monies.

The separate rules on controlled monies are based on outmoded provisions that formerly applied to the legal profession, and, for lawyers and property agents, have now been superseded by a single, more streamlined way of dealing with trust funds.

The bill removes the distinction between "trust" money and "controlled" money, and introduces a single comprehensive scheme setting out the accounting requirements relating to all money held by a conveyancer on trust for another.

Consumers remain protected because all money received by a conveyancer must be held in a trust account until it is paid out in accordance with the client's directions or the procedures set out in the regulations.

The streamlining of the trust accounting scheme is expected to bring significant costs savings benefits for conveyancers as a result of removing unnecessary regulatory requirements and reducing the complexity of the accounting system.

The current need to comply with two sets of accounting rules provides no additional benefits for conveyancers or their clients, and needlessly increases annual accounting and auditing bills.

Two further minor amendments to the trust money provisions are contained in the bill, and also flow from recent changes to the Property, Stock and Business Agents Act.

The first of these relates to the names in which trust accounts opened for specific clients are held.

All trust accounts, both general and separate, must include the name of the licensee.

For separate trust accounts, the name of the client is generally also included in the account name, for example "Smith sale to Jones".

To help facilitate trust account identification, the bill amends section 53 (5) to clarify that the name of the licensed conveyancer or corporation is to appear as the prefix of the account name, followed by any other necessary identifier of the trust account.

This will make accounts easier to identify and assist with auditing, and any enforcement or disciplinary procedures.

The other minor amendment updates the procedures under which the Office of Fair Trading deals with unclaimed trust money.

The Act requires that unclaimed money held by Fair Trading be remitted to Treasury following the end of each year, along with details of the persons entitled to the money and the amount to which they are entitled.

Under section 65, Treasury must pay money to an entitled person on application.

Treasury has recently changed its requirements and now requires government agencies to keep their own unclaimed money register of the persons entitled to money.

Claims by entitled persons are made to and paid by the agency, and the agency then recoups the money from Treasury. The bill seeks to amend these provisions to reflect current Treasury requirements.

The final matters contained in the bill are minor miscellaneous amendments to clarify the procedure for surrendering a licence and to add a regulation making power for the waiver or refund of fees.

In relation to the surrendering of a licence, the bill simply seeks to align the conveyancers licensing framework with that of property agents and valuers.

This is achieved by specifying that the Licensing and Registration (Uniform Procedures) Act applies in respect of the surrender and cancellation of a conveyancer's licence, as it does for property agents and valuers.

And finally, the bill amends the general regulation making power in section 172 of the Act to include a power to make regulations enabling the Commissioner to waive, reduce or refund fees payable under the Act.

This amendment puts beyond doubt the power to make a regulation to provide for waivers or refunds of fees in appropriate circumstances.

A similar amendment was made to the Valuers Act in the statute law revision program last year, and it is appropriate to make the same amendment to the Conveyancers Licensing Act in order to maintain consistency.

The bill that I have outlined today aims to clarify some important issues concerning the new legislative framework governing the conveyancing profession.

These amendments are necessary to provide greater certainty and clarity in the licensing scheme, and to ensure that there are clear jurisdictional boundaries between the regulation of conveyancers and legal practitioners in New South Wales.

It is essential that the legislative schemes be able to be administered effectively and that the avenues for dispute resolution and consumer redress in the event of problems are clear and straightforward.

The bill also seeks to improve consistency with other Fair Trading licensing schemes by aligning the licence disqualification and trust accounting provisions of the Act with those that apply to property agents.

The benefits to conveyancers in particular will be streamlined accounting procedures and reduced red tape.

Other minor amendments in the bill clarify or update procedural matters to improve the Act's effectiveness in practice.

A draft of the bill was recently forwarded to major stakeholders, including the Australian Institute of Conveyancers and the Law Society of New South Wales, for their consideration and comment.

These bodies are supportive of proposals to ensure that any conveyancing work performed by a legal practitioner or legal practice is clearly covered by the provisions of the Legal Profession Act, and not the Conveyancers Licensing Act.

The bill achieves this.

Several submissions were received on the draft Bill and have been taken into account in the final drafting.

I want to thank those organisations for their input to the Bill, and for their ongoing co-operation with Fair Trading on these matters.

I commend the bill to the House.

**The Hon. CHARLIE LYNN** [5.17 p.m.]: The Conveyancers Licensing Amendment Bill seeks to clarify a number of oversights in the Conveyancers Licensing Act 2003, which establishes a licensing scheme for conveyancers and enables them to provide conveyancing services in competition with legal practitioners. The bill cleans up some confusion in the Act and introduces some sensible measures for trust accounting. The 2003 Act was the result of a review of the Conveyancers Licensing Act 1995, which effectively lifted the monopoly of conveyancing work from solicitors. This has provided benefits to consumers in the form of competition, price and the choice of conveyancer.

The 2003 Act that this bill relates to provides for a licensing scheme for conveyancers. This provision ensures that only qualified, fit and proper persons are able to practise as conveyancers. It removes the restrictions preventing conveyancing firms from incorporating. It strengthens the supervision and control of employees and spells out the responsibilities of licensees in charge of conveyancing firms. It also streamlines trust accounting rules.

The 2003 Act streamlines the way conveyancers are required to manage themselves, in that they will be subject to the provisions of one Act and not the Legal Profession Act. The amendments today allow the new Act to operate smoothly in the interests of consumers. The Opposition does not oppose these amendments but highlights to the House that these matters should have been foreseen and dealt with by the Government when the original Act was introduced, by cleaning up the oversights in the 2003 bill and bringing into line the disqualification rule in the Property, Stock and Business Agents Act with the Conveyancers Licensing Act, which, as a similar Act, provides consistency.

I will now address the amendments. The bill makes it clear that the Conveyancing Licensing Act 2003 does not apply to legal professionals conducting conveyancing services. It disqualifies legal practitioners, corporations and incorporated legal practices under the Act from obtaining a conveyancer's licence. Currently legal practitioners are able to obtain a conveyancer's licence under the Act, even though they do not need to do so in order to provide conveyancing services. This situation creates jurisdictional problems, such as whether a legal practitioner who is licensed under the Act is regulated by the Legal Profession Act or the Conveyancing Licensing Act. This is a significant problem for consumers when pursuing disciplinary measures against the legal professional. Another problem is whether the indemnity fund under the Legal Profession Act or the compensation fund under the Property, Stock and Business Agents Act applies.

The amendments deal clearly with how licensed conveyancers must handle trust money, that is, money that conveyancers collect on behalf of others. Effectively, these amendments improve administration. The current system provides for trust money and controlled money so as to reflect aspects of the regulations relating to legal professionals. The amendments remove this distinction and comprehensively provide for a single accounting system in relation to trust money. Red tape is reduced and conveyancers will deal with only one set of accounting principles. This provision will save time and money. A further change to the dealing of trust money provides that the name of the licensed conveyancer must be specifically identified on the trust account name. This measure offers more protection to the consumer, as it allows for transparent auditing and the easy identification of accounts. A number of amendments deal with the grounds upon which a person can be disqualified from holding a conveyancing licence.

The current Act disqualifies a person who is a "director or person concerned in the management of a corporation that is the subject of a winding up order or for which a controller or administrator has been appointed". A loophole exists in the Act because it does not cover a creditor's voluntary winding up or the appointment of a liquidator. The bill allows for a broader coverage to ensure that suitable people can hold such a licence. Another minor amendment with significant application is that a director or person concerned in the management of a company in the 12 months prior to it becoming externally administered should be disqualified from holding a licence. Under the current Act a director could resign the day before an administrator is appointed and still be eligible to hold a licence. I understand that a number of major stakeholders have been consulted about the amendments. The New South Wales Law Society has indicated that it is happy with them. The Opposition does not oppose the bill, which clears up administrative issues that were apparent in the current Act.

**Ms SYLVIA HALE** [5.22 p.m.]: The Greens support the Conveyancers Licensing Amendment Bill, which amends the Conveyancers Licensing Act 2003. The purpose of the 2003 Act, which provides for a licensing scheme for conveyancers, was to ensure that only properly qualified and fit persons could become conveyancers, to regulate conveyancers' conduct, and to allow for dispute resolution through the Consumer, Trader and Tenancy Tribunal. The Act has not commenced. The amendments in the bill will improve the proposed Act prior to its commencement as law. I will not speak at length to the bill, as it is similar in nature to the Property, Stock and Business Agents Bill, which was passed earlier this year and supported by the Greens. The present bill has similar aims, that is, to make the administration of the Act clearer and to ensure a high level of probity.

The amendment in schedule 1 [1] refers to persons who can be licensed under the Act as a conveyancer. The bill clarifies that the provisions do not relate to conveyancing services provided by legal practitioners. This amendment was inserted because legal practitioners do not need a conveyancing licence to undertake conveyancing. They are already qualified to undertake conveyancing by virtue of having gained a practising certificate issued by the Law Society. It is necessary that this point is specified because a consumer who has a complaint about the handling of a conveyancing matter by a legal practitioner who holds a conveyancing licence may be unsure as to which Act—the Conveyancers Licensing Act or the Legal Profession Act—is relevant. There may be confusion about which indemnity fund would meet a claim by a consumer against a legal practitioner who was found to have acted improperly, resulting in financial loss to the client. Further confusion may arise as to which disciplinary process would apply.

The amendment is designed to make it clear that legal practitioners are not covered by the Conveyancers Licensing Act. Legal practitioners, when doing conveyancing work, are covered by the Legal Profession Act. If there are any complaints about a wrongdoing by a legal practitioner, that Act regulates the procedures. In effect, legal practitioners are able to undertake conveyancing once they have obtained their law degree and practising certificate. They do not need a conveyancing licence, as does a non-legal practitioner. It makes sense to make this distinction clear. Other proposed amendments mirror the amendments to the Property, Stock and Business Agents Act, which passed through the Parliament earlier this year. The amendments to both Acts are similar in intent—that is, to ensure higher standards of probity. The provisions of section 16 of the Property, Stock and Business Agents Act have been reproduced in the amendments to the Conveyancers Licensing Act.

The amendments clarify the application of the disqualification provisions to a person involved in a failed company. The changes make it clear that a person who voluntarily winds up a company is not subject to disqualification under section 10 (1) (b) of the Conveyancers Licensing Act. The amendment makes this clear by changing the words of the subsection so it provides that a person may be disqualified if he or she is a "director or person involved in the management of an externally administered body corporate". The amendment is designed to capture a variety of situations whereby a company has gone into administration. That will avoid capturing persons who decide to wind up a company because it no longer meets their needs or requirements, rather than the company going into administration.

The next amendment covers the situation in which a person resigns just prior to a company going into administration and thereby eludes the disqualification provisions. The bill provides that anyone involved in a company in the 12 months prior to it going into administration is subject to the disqualification provisions. The bill further amends section 10 by allowing the Commissioner of Fair Trading to waive the disqualification of an undischarged bankrupt if the commissioner is satisfied that the person took all reasonable steps to avoid bankruptcy. This amendment makes it clear that the commissioner's discretion still applies in such circumstances. The commissioner must take into account the person's actions when problems emerged, not just when bankruptcy was imminent.

The bill exempts those who worked for a failed company from provisions that prevent a person from becoming employed as a conveyancer. Therefore, an employee of a failed company, who was acting under supervision and could not be attributed any blame, is not prevented from becoming a licensed conveyancer in the future. A further amendment that deals with disqualification provides that a person who has been the subject of a serious disciplinary action in another area of fair trading law and has been suspended or disqualified—for example, a builder who has lost his licence because of shoddy workmanship, or a private certifier who has been found taking inducements from a developer to approve a substandard building—is not able to suddenly change career and obtain a conveyancer's licence.

The next set of amendments, which relate to part 5 of the Act, specify how conveyancers must deal with money they receive on behalf of others. The amendments more closely align the requirements in the Act

with the requirements placed upon property agents. The amendments remove a now outmoded distinction between trust money and controlled money. The bill provides that all money received must be held in a trust account until it is paid out according to the client's direction or the regulations. A further amendment provides that the name of the trust account must include the name of the licensee. For separate trust accounts the name of the client is generally also included in the account name. The name of the licensed conveyancer or corporation is to appear as a prefix to the account name. This allows for easy identification of the trust account holder and the person whose money is being held in trust.

Another amendment relates to how the Office of Fair Trading deals with unclaimed trust money. Treasury keeps unclaimed money and now requires government departments to maintain their own record of unclaimed money. Money claims are made to the agency and paid by the agency, which then recoups that money from Treasury. The bill amends the Act to conform to Treasury practice. The other amendments are minor. They relate to procedures for surrendering a licence and add a regulation-making power for the waiver or refund of fees. These amendments align the Act with the Valuers Act and the Property Stock and Business Agents Act. I have checked with the Australian Institute of Conveyancers, and it is happy with the bill. The Greens support the bill.

**Reverend the Hon. FRED NILE** [5.31 p.m.]: The Christian Democratic Party supports the Conveyancers Licensing Amendment Bill. The purpose of this bill is to amend the Conveyancers Licensing Act 2003 to clarify that it does not apply to a conveyancing business conducted by an Australian legal practitioner, solicitor, corporation or incorporated legal practice; to align the licence disqualification and trust accounting provisions of the Act to maintain consistency with equivalent provisions of Property, Stock and Business Agents Act; and to make other minor amendments. Problems occurred with the legislation when the regulations were being drafted and it was never proclaimed. I have double-checked to ensure that I am correct in saying that. It is very unusual for legislation to be passed by Parliament but not be proclaimed.

**Ms Sylvia Hale:** It is quite common.

**Reverend the Hon. FRED NILE:** I know that some sections are not proclaimed, but not many entire pieces of legislation that have been passed by Parliament have not been enacted. The honourable member may be able to cite one.

**Ms Sylvia Hale:** No, it was simply a general observation.

**Reverend the Hon. FRED NILE:** Some parts of the legislation may not be proclaimed, but I do not think an entire bill has remained unproclaimed. Obviously it is very important that this amending bill is passed so that the original legislation can be enacted. During the debate I raised reservations about giving these powers to conveyancers to deal with property transactions, simply because buying a house is probably the largest transaction most people will conduct. I believe it is wise to use a solicitor when buying a house, to ensure there are no problems with the property, title, and so on. I have always done so, but I can understand people trying to cut costs by using a conveyancer. However, if they do, they should ensure that the conveyancer understands all the procedures. It is no good crying foul after the event if there is a legal dispute about the property. As I said, the Christian Democratic Party supports the legislation and trusts that it will be proclaimed and enacted.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [5.35 p.m.], in reply: I thank honourable members for their support. I particularly thank Reverend the Hon. Fred Nile for his observation about the delay in the commencement of the 2002 legislation. Since the legislation was passed in 2003 the Government has continued to lay the groundwork for its commencement. These preparations have included: a consultation reference group set up to help develop the regulations, including the Australian Institute of Conveyancers, the Law Society and the Legal Services Commissioner; the development of rules of conduct for conveyancers; new procedures for resolving costs disputes, drafted in consultation with the Consumer, Trader and Tenancy Tribunal; and public exhibition of a regulatory impact statement in late 2004.

Through ongoing dialogue with the Australian Institute of Conveyancers and others, it became clear that it would be necessary to clarify the Act's application to legal practitioners. It is regrettable that these changes have to be made to commence the Act. However, in the end, the potential impact on consumers and on the conveyancers licensing scheme of not making these amendments is sufficiently serious to warrant postponing commencement. The Government is taking a sensible approach. It is expected that the new legislation will be commenced later this year. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## PIPELINES AMENDMENT BILL

### Second Reading

**The Hon. HENRY TSANG** (Parliamentary Secretary) [5.36 p.m.], on behalf of the Hon. Michael Costa: I move:

That this bill be now read a second time.

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

**Leave granted.**

I am pleased to introduce the Pipelines Amendment Bill, which simplifies licensing approvals for construction of pipelines under the Pipelines Act.

The Pipelines Act was introduced in 1967. It was designed to develop and regulate cross-country pipeline infrastructure to ensure the safe transportation of gas and liquid petroleum in New South Wales.

In the last 39 years, twenty-nine pipeline licences have been issued and more than 5000 kilometres of oil and gas transmission pipelines have been constructed..

We now have 3375 kilometres of high-pressure natural gas pipelines to supply the natural gas energy needs for New South Wales.

Natural gas is supplied to many industrial and commercial operations and more than 900,000 residential gas consumers. Consumption of this environmentally friendly fuel is growing. This will continue to increase in the future as gas-fired electricity generation is built and consumer demand for low greenhouse gas emitting energy grows.

The Pipelines Act contains relatively complicated and antiquated procedures for assessing the environmental impacts of the construction and operation of pipelines. This is because the original Pipelines Act was introduced well over a decade before the Environmental Planning and Assessment Act in 1979.

For all these reasons, the Government is moving to streamline the process to make it faster and easier for pipeline infrastructure to be approved.

The existing multi-stage approval process of the Pipelines Act is time consuming and inefficient.

Currently, anyone wishing to construct a pipeline under the Act must apply to the Minister for a permit to enter lands to determine the route of the proposed pipeline.

Following amendments introduced to the Act after the commencement of environmental planning laws, an environmental assessment must be undertaken in accordance with part 5 of the Environmental Planning and Assessment Act.

In addition, the Pipelines Act incorporates a basic land impact assessment by requiring consultation with Ministers of the Crown with portfolio interests in land matters before pipeline approvals can be granted.

Only the holder of a permit may apply for a licence to construct and operate a pipeline. The licence is granted by the Governor on the recommendation of the Minister.

The bill amends the Pipelines Act to reduce the unnecessary red tape, cost and complexity of these approvals processes, while at the same time improving the environmental assessment of major pipeline projects.

The bill does not reduce the responsibility of the pipeline applicant to undertake fair and reasonable negotiations with land owners. The current criteria for land access will be continued without amendment. The requirement for compensation to be paid by the licensee in accordance with the Land Acquisition (Just Terms) Compensation Act also remains unchanged.

I will now address the elements of the bill in turn.

Schedule 1 of the bill contains the amendments to the Pipelines Act.

The bill amends section 5 of the Act to clarify the circumstances in which the Act applies. The scope and application of the Act is governed by section 5, which sets out the circumstances in which a person is not required to hold a pipeline licence. The Act provides that it does not require a person to hold a pipeline licence in respect of a pipeline constructed under an authority granted under another Act.

The bill amends section 5 of the Act to clarify that pipelines granted development approval under the Environmental Planning and Assessment Act are not exempt from requiring a pipeline licence.

The bill also amends section 5 of the Act to specify that a person is not required to hold a pipeline licence in respect of a pipeline for the supply of water or the conveyance of waste water or mine water.

This is because it is not necessary to regulate these pipelines for safety. Any person may, however, choose to apply for a pipeline licence for these types of pipelines if they wish to do so in order to facilitate the construction of the pipeline.

Previously, pipelines for the conveyance of mine water were exempt from the operation of the Act by a proclamation made by the Governor and published in the Gazette. For ease of reference, the bill incorporates the terms of the proclamation into the Act.

To simplify and streamline the licensing process, the bill repeals the obligation for a prospective licensee to obtain a permit to enter lands to determine the route of the proposed pipeline. The entire permit stage is repealed by the bill. Environmental assessment and development approval will now be conducted under the Environmental Planning and Assessment Act in the same manner as other major infrastructure projects.

In repealing the permit stage, the voluntary Authority to Survey is reinforced to ensure pipeline proponents can investigate and determine possible routes for the proposed pipeline, and undertake any necessary examination and testing.

Under the amendments introduced by the bill, the grant of an authority to survey will become subject to the Environmental Planning and Assessment Act. Obtaining an Authority to Survey will remain entirely voluntary.

With the repeal of the permit stage, there will no longer be a requirement to seek the concurrence of other Ministers of the Crown prior to the grant of pipeline approvals. To ensure relevant information is provided to public authorities with administrative responsibilities over lands that may be affected by a proposed pipeline, the bill establishes a requirement to notify prescribed public authorities of the licence application.

To further streamline pipeline approvals, the bill transfers from the Governor to the Minister functions that are part of the day-to-day administration of the Act. The bill allows for the Minister to grant or cancel pipeline licences, vest easements, vary the licence area and to vary, suspend or exempt the licensee from any licence conditions.

The Act currently requires a licence to be renewed at a maximum interval of 21 years. This was originally intended to allow for a regular review of the operation and safety of pipelines. This is no longer necessary as the current performance based safety regime embodied in the Pipelines Regulation requires independent auditing and reporting on pipeline operations to the Government on an annual basis.

The bill repeals the licence renewal provisions of the Pipelines Act, further reducing unnecessary complexity and cost to the licensee. Instead, a licence granted under the Act remains in force unless cancelled or suspended under the Act.

This bill will align the pipeline licensing regime with the planning reforms now implemented in the Environmental Planning and Assessment Act.

The provisions of the Environmental Planning and Assessment Act will apply to pipeline approvals issued under the Pipelines Act. Environmental assessment of pipelines will be consistent with that which applies to other major infrastructure projects.

The bill will ensure that major pipeline projects are approved in a timely manner while ensuring that the environmental impacts from such projects are assessed and managed effectively.

To ensure that any changes to a pipeline that may impact on the environment are properly considered, variations to licence areas and licence conditions will become subject to the Environmental Planning and Assessment Act. The current provisions of the Pipelines Act exclude these-activities from consideration under the Environmental Planning and Assessment Act. As part of the alignment of the Pipelines Act with the Environmental Planning and Assessment Act the bill will require any changes to the pipeline location or design during its life to be subject to development approval in the same manner as any other infrastructure.

Schedule 2 of the bill amends the Environmental Planning and Assessment Act so that approvals granted under that Act are consistently applied under the Pipelines Act. This completes the alignment of the Pipelines Act with the Environmental Planning and Assessment Act and ensures consistency between the two processes.

The savings and transitional provisions of the bill ensure that pipeline proponents who have already commenced the approval process under the Pipelines Act are not disadvantaged by having to halt existing applications and reapply. Many of these projects are well advanced and it is important that they are not unnecessarily delayed.

By simplifying and streamlining pipeline approvals, the proposed amendments will help facilitate the timely construction of major pipeline projects.

I commend the bill to the House.

**The Hon. DON HARWIN** [5.37 p.m.]: I lead for the Opposition on the Pipelines Amendment Bill. Currently, any companies or network operators wanting to construct a pipeline for the transportation of gas and liquid petroleum must make an application under the Pipelines Act. The Act was introduced in 1967 with the aim of regulating the development of the State's cross-country pipeline infrastructure. Many of the assessment procedures required under the Act are outdated, complex and inefficient. The increasing demand for natural gas energy from both industrial and residential consumers has highlighted the need for these processes to be updated, simplified and streamlined.

The multi-stage approval process of the Pipelines Act requires applicants to negotiate a time-consuming and unnecessarily complex approval process which can take 12 months and which can involve as many as five different Ministers and departments. They must apply for a permit or authority to undertake a

survey for determination of the route of the pipeline. Then they must apply for a licence to construct and operate the pipeline. All the relevant Ministers must concur in each of these stages. Although the Act predates the introduction of the Environmental Planning and Assessment Act 1979, it has been amended to subject pipeline applications to environmental assessment under part 5 of that Act. Finally, the applicant has to wait for the Governor, following a recommendation from the Minister, to approve the licence.

This bill seeks to substantially simplify and streamline these procedures, making the process quicker and more cost efficient. At the same time, the bill is designed to improve the environmental assessment of major pipeline projects. Both the reduction in red tape and the increased environment-focused scrutiny are desirable outcomes. Schedule 1 to the bill contains various amendments, several of which clarify the scope and application of the Pipelines Act. The relevant section of the Act provides that a person is not required to hold a pipeline licence in respect of a pipeline constructed under an authority granted under another Act. The bill makes it clear that this exemption does not extend to pipelines granted development approval under the Environmental Planning and Assessment Act. Further, the bill explicitly states that a person is not required to hold a pipeline licence in respect to a pipeline used for the transfer of water, waste water or mine water. The Government has explained that these pipelines do not require the same degree of regulation on safety grounds.

Under the provisions of the bill, the entire permit stage of the current application process is repealed. Instead, application assessment and development approval will be conducted under the Environmental Planning and Assessment Act in a manner consistent with other significant infrastructure works. Under the Environmental Planning and Assessment Act, applicants can seek an authority to survey for potential routes, including any necessary examination and testing, as necessary. By removing the permit stage of the application and approval process, the need to secure the concurrence of other Ministers prior to the granting of approval will be avoided. Instead, applicants will simply be required to provide relevant information about the application to the public authorities responsible for land affected by the proposed pipeline.

These changes appear to significantly reduce red tape and delays while maintaining an adequate level of disclosure to stakeholders. While the bill dispenses with the need for a permit, the requirement for a licence will be retained. Under the bill, the pipeline licensing process will be brought into line with the Environmental Planning and Assessment Act. The provisions of that Act will apply to pipeline approvals issued under the Pipelines Act, thus ensuring that the assessment of pipeline applications is subjected to the same scrutiny as applies to other major infrastructure works. Any variations to these licences in relation to location or operating conditions will also be subject to the Environmental Planning and Assessment Act provisions.

Other parts of the Pipelines Act repealed by this bill are the sections pertaining to the renewal of licences. Currently, operational licences are granted for specific intervals of time up to a maximum of 21 years, after which it is necessary for them to be renewed, subject to a review. This was designed to enable the operation and safety of pipelines to be routinely assessed. As operators are now subjected to annual independent audits and annual reporting requirements, this safeguard is no longer relevant. Consequently, under the provisions of the bill, licences would be granted for an indefinite period, and would remain valid until cancelled or suspended under the Act. The need for review by the Minister at intervals not exceeding 21 years is included explicitly in the bill.

The streamlining of the process under this bill is completed with the transfer from the Governor to the Minister of the functions that are part of the day-to-day implementation of the Pipelines Act. The Minister will be empowered to grant, vary or cancel pipeline licences, as well as suspend or exempt the licensee from any licence conditions. Finally, schedule 2 makes a minor amendment to the Environmental Planning and Assessment Act to ensure that pipeline applicants who have already commenced the approval process under the Pipelines Act are not disadvantaged by any requirement to halt their existing applications and resubmit them under the new arrangements. Such a delay would be undesirable.

It could be argued that these changes do nothing to improve community input into the planning of such infrastructure projects, given that the Government can fast-track approvals by either creating a State environmental planning policy or utilising the new State-significant approval process. This reservation aside, however, there are many arguments in favour of the amendments proposed in the bill. The main advantage is the potential for the changes to encourage investment in the State's energy infrastructure and to fast-track construction. Legislative changes that encourage investment and fast-track construction are welcome. The bill reduces red tape, cuts application costs, hastens approval times, and safeguards environmental interests during the assessment process. By simplifying and streamlining an outdated procedure, these changes should encourage investment in the energy infrastructure sector in a responsible manner. Accordingly the Opposition does not oppose the bill.

**Reverend the Hon. FRED NILE** [5.43 p.m.]: The Christian Democratic Party supports the Pipelines Amendment Bill, the main purpose of which is to streamline pipeline approvals to cut the red tape—or perhaps green tape—to facilitate the development of this State, particularly with regard to new pipelines for gas and liquid petroleum products. The bill does not apply to water pipes. The Pipelines Act 1967 enabled the pipeline proponent to apply for a permit to determine the route of a proposed pipeline. The permit holder then had to apply for a licence to construct and operate the pipeline in New South Wales.

The entire permit stage will be repealed by the bill, and the requirement for a permit will be removed. The environmental assessment and development approval will now be conducted under the Environmental Planning and Assessment Act, in the same way as other major infrastructure projects. That is one way to speed up the process. The bill will also align the pipeline licensing regime with the planning reforms now implemented under the Environmental Planning and Assessment Act. The provisions of that Act will apply to pipeline approvals issued under the Pipelines Act and will be consistent with other major infrastructure projects. The bill will ensure that major pipeline projects are approved in a timely manner, while also ensuring that the environmental impacts of such projects are assessed and managed effectively.

The bill amends section 5 of the Act to specify that a person is not required to hold a pipeline licence in respect of a pipeline for the supply of water or the conveyance of waste water or mine water. That is because it is not necessary to regulate these pipelines for safety. However, any person may still choose to apply for a pipeline licence for these types of pipelines in order to facilitate the construction of the pipeline. The proposed legislation in no way removes any of the other protections that have always been available. It does not reduce the responsibility of the pipeline applicant to undertake fair and reasonable negotiation with landowners, and the current criteria for land access will be contingent with that amendment. The requirement for compensation to be paid by the licensee in accordance with the Land Acquisition (Just Terms Compensation) Act, which I strongly supported when the bill was introduced in this House, also remains unchanged. For those reasons the Christian Democratic Party supports the bill.

**Mr IAN COHEN** [5.46 p.m.]: The Greens do not oppose the Pipelines Amendment Bill. The bill amends the Pipelines Act, which was introduced in order to regulate pipeline infrastructure in this State and to ensure that gas and liquid petroleum could be transported safely throughout the State. As the consumption of natural gas grows in terms of both residential and commercial demand, it is envisaged that the construction and operation of new pipelines will be needed. In particular, gas-fired electricity generation will require new pipelines.

While the Greens acknowledge that this need will arise, it is crucial that any construction, maintenance and operation of pipelines is carried out in accordance with best practice environmental assessment and procedures. It would be unacceptable for urban or rural areas to be carved up inappropriately, native vegetation concerns to be overridden, or sensitive areas to be disturbed in the construction of pipelines. Schedule 1 to the bill amends the principal Act to confer to the Minister functions that were previously carried out by the Governor, other than the function of making regulations. This would transfer to the Minister functions that are part of the day-to-day activities, such as granting and cancelling pipeline licences. The Greens have no problems with this provision.

The bill amends the Pipelines Act to remove the requirement to obtain a permit before seeking a pipeline licence. It seeks to streamline licensing processes, purportedly removing red tape and complexity in the pipeline assessment process. This is expected to reduce the time for issuing a pipeline licence from a year to less than half that time. The bill seeks to apply the Environmental Planning and Assessment Act 1979 to the construction and operation of pipelines licensed under the Act. The Greens do not oppose the application of the Environmental Planning and Assessment Act to pipelines but we object to the inclusion of part 3A of the Environmental Planning and Assessment Act. If time had allowed I would have moved an amendment to this effect.

The Pipelines Act began operation in 1967, and therefore the process for issuing approvals and assessing environmental impacts from construction and operation of pipelines are, according to the Government, complicated and antiquated. It seems reasonable that assessment of pipelines should occur under the Environmental Planning and Assessment Act. I have consulted various environmental groups and they do not have a problem with this measure.

Schedule 2 to the bill, however, seeks to amend the Environmental Planning and Assessment Act so that a licence under the Pipelines Act cannot be refused if it is necessary for carrying out a project approved

under part 3A of the Environmental Planning and Assessment Act and the licence is to be substantially consistent with part 3A approval. Last year the Greens vehemently opposed changes to the Environmental Planning and Assessment Act that saw part 3A included in the Act. The lack of checks and balances, the riding roughshod over environmental protection legislation and threatened species legislation, and other important concerns that are inherent in part 3A set back for decades the environmental planning and assessment regime. It removed hardfought-for rights and handed power over to big developers.

The inclusion of pipelines in this provision would mean that major pipelines could be built through environmentally sensitive areas without proper assessment and without appeal rights. It would mean that major pipelines could carve up communities without them having a say. The Greens continue to oppose part 3A of the Environmental Planning and Assessment Act and we oppose the extension of the section to include pipelines. With those concerns, the Greens do not oppose the bill. However, the Government should take note of real concerns of potential environmental and social degradation by the application of part 3A, as I have described.

This is a significant setback in relation to the Government's bona fides in taking due care when placing these types of developments on the drawing board. This affects people in country areas and environmentally constrained areas. During a recent inquiry Marrickville councillors expressed concern about the impact of pipes being dug through their municipality if a desalination plant were to go ahead. This does not apply to water, but I have been advised that the Act could be enforced if private interests apply to harvest or mine the effluent or grey water from various systems with the laudable objective of reusing the resource. Under part 3A of the Environmental Planning and Assessment Act communities may not be given adequate opportunity to participate in the assessment process of major infrastructure projects.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [5.52 p.m.], in reply: I thank honourable members for their contributions to the debate. The main purpose of the Pipelines Act is to facilitate the construction, operation and regulation of major pipeline projects, particularly oil and gas transmission pipelines. Water supply pipelines constructed by the private sector may also be licensed under the Act. The amendments contained in the Pipelines Amendment Bill simplify and streamline pipeline approvals and improve the environmental assessment of major pipeline projects. The bill ends the permit scheme under the Act and applies the provisions of the Environmental Planning and Assessment Act to pipelines approvals. The amendments will help facilitate the timely construction of major infrastructure projects involving pipelines.

One such project is the Hunter Queensland gas pipeline. This project will span approximately 850 kilometres from Wallumbilla in Queensland to Hexham in New South Wales. It will supply gas to industry and consumers. This $700 million project will generate some 800 short-term jobs and 150 long-term jobs. It will contribute to the economic prosperity of the Hunter region. Proponents of this major pipeline project have expressed their support for the bill. The amendments will assist in making the approvals process that applies to this project more streamlined and enable this State-significant infrastructure project to be realised. The bill cuts red tape, without reducing the responsibility of pipeline proponents to undertake fair and reasonable negotiations with landowners. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## VALUATION OF LAND 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) [5.57 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**.

This bill contains a number of amendments to the Valuation of Land Amendment Act 1916 which are aimed at remedying problems and anomalies that have arisen in practice. The Valuation of Land Act 1916 provides for the valuation of land in New

South Wales. Among other things it establishes the Office of the Valuer-General and provides for the appointment of contract valuers. The Act requires that all land in New South Wales, except Crown land in those parts of the Western Division that are not within the area of a rating or taxing authority, must be valued each year. Valuations under the Act are used primarily as the basis for calculating rates and land tax. For consistency, land is valued as at 1 July each year.

The Valuer-General is required to keep a Register of Land Values and to supply valuation lists—extracts from the register—to rating and taxing authorities. The Act also sets out various allowances that are to be taken into account when valuing land for the purposes of the Act, such as money expended to subdivide or otherwise improve the value of the land, as well as factors to be taken into account by rating authorities when calculating rates or tax. The Act was amended in 2000 to give effect to recommendations of the Walton inquiry report. At that time some provisions were removed from the Land Tax Management Act 1956 and incorporated into the Valuation of Land Act. The amendments set out in this bill are aimed at addressing problems with various sections of the Act and correcting anomalies that have been identified in practice, some of which have arisen as a result of the 2000 amendments.

The first item I want to deal with is an amendment to section 14A of the Act to allow the Valuer-General to make a new valuation of land of his or her own volition at any time if the circumstances regarding that land have changed; for example, if the land has been subdivided. At present, where circumstances regarding a block of land change, the Valuer-General can make a new valuation only if requested to do so by a rating authority, meaning a local council, the Chief Commissioner of Taxation or Sydney Water Corporation. In order to keep valuation information up to date it is necessary for the Valuer-General to have a discretion to carry out a new valuation at any time, on his or her own volition, should the Valuer-General become aware that there has been a change of circumstances without having to wait for a request from a rating authority.

Next, section 14K is amended to ensure consistency in assumptions that can be made about the land being valued and other comparable land. That section sets out assumptions the Valuer-General is required to make about, firstly, the physical condition of the land and, secondly, the manner in which the land may be used. At present there is an inconsistency in the wording of the parts of the section that deal with each of those assumptions. The amendment will remove the inconsistency. The amendment will bring the wording of the section into line with what the Land and Environment Court considers to be the correct interpretation of the intention of the section. The next item concerns section 14V of the Act, which deals with allowances for subdivision. It requires the Valuer-General, when valuing a parcel of land, to make an allowance—that is, give a deduction—for money spent subdividing the land. The section is amended to provide that the allowance will cease when the subdivider sells the land. This will ensure that only the person who incurred the expenditure gets the benefit of the allowance.

The next item deals with allowances for profitable expenditure made in relation to the land, and their exclusion in certain cases. When valuing a block of land the Valuer-General is required to make an allowance—that is, a deduction—for money spent by the owner that might increase the value of the land. Examples might be works to supply water to the land or protect the land from flood. Section 14M of the Act is amended to bring its wording into alignment with section 14V, thereby ensuring that only the person who incurred the expenditure can get the benefit of an allowance. The next item relates to who can claim a subdivision allowance. At present there is some doubt as to whether a subdivision allowance can be given if the land being subdivided is owned by more than one person—for example, if two blocks each owned by different people are being subdivided together. The definition of subdivider in section 14S is amended to clarify that land owned by two or more people will qualify for a subdivision allowance.

Another amendment relates to land which is situated partly in one valuation district—that is, a local government area—and partly in another district. Currently, section 28 requires that each part must be valued separately. This can lead to inaccurate and misleading valuations. For example, in one case the boundary of two local government areas divided a parcel of land into a small part with road frontage and a larger part without road frontage. When valued separately the small part had a low value because, even though it had a road frontage, requirements for the setback of buildings meant the space available for building was quite small. Further, the large part also had a low separate value because it had to be valued on the assumption that it had no road frontage. The two values for the separate parts resulted in a much lower total value than if the parcel had been valued as a whole. A single valuation would have resulted in a more accurate reflection of the parcel's true value. The bill amends section 28 to provide that in such a situation a parcel is to be valued as a whole parcel in a single valuation and then apportioned between local government areas.

New section 28A will provide that if land is rateable or taxable as to part only, the part that is rateable or taxable may be separately valued. The Act is also being amended to remove an inconsistency regarding when a person may object to a valuation. Section 29 is amended to remove the power of the Valuer-General to fix, in the notice of valuation, the time within which persons may object to a valuation, as this is inconsistent with section 35, which specifies a set period of 60 days. This amendment will also clarify that a person may object to a valuation after receiving a land tax assessment without having to wait for a formal notice of valuation.

At present, section 35 requires that an objection be lodged within 60 days of receipt of a land tax assessment or service of a notice of valuation under section 29. However, section 29 only allows a person to object to a valuation after they receive a notice of valuation. The Valuer-General is only required to issue a notice of valuation when a valuation list is provided to a local council, which occurs every three years. As Land Tax is levied annually, a person may wish to object to the valuation on which the land tax assessment is based. It is arguable that if a person has not yet received their notice of valuation then, technically, they may not be able to object. It would not be fair to prevent a person from objecting in that situation so, as a matter of practice, the Valuer-General already allows people to object after receiving a land tax assessment. This amendment will regularise that practice and remove any ambiguity.

Section 29 is also amended to ensure that a person who objects to a valuation must give notice of the objection to every person with an interest in the land who has received a notice of valuation. Section 76 is amended to authorise the Valuer-General to supply New South Wales public authorities with information about land valuations. The Valuer-General is already authorised to supply such information to Commonwealth public authorities. This will provide consistency in the application of the section and ensure the provision of information to State departments and agencies is treated in a similar way to Commonwealth agencies. Finally, the bill also contains a number of amendments in the nature of statute law revision. I commend the bill to the House.

**The Hon. RICK COLLESS** [5.57 p.m.]: I lead for the Coalition on the Valuation of Land Amendment Bill. The bill allows the Valuer-General to make a new valuation of land at any time where the circumstances of that land have changed. Currently a valuation can be made only at the application by a rating or taxing authority. The bill will amend the Valuation of Land Act to ensure consistency in assumptions that can be made about the land being valued and the manner in which other lands may be used. That amendment will bring the wording of the Act into line with the interpretation of the Land and Environment Court.

Currently the Valuer-General may allow a deduction in value to take account of money spent by an owner that increases the value of the land. The amendment will ensure that only the person who incurred the expenditure can claim the allowance. It also clarifies that where multiple allotments are subdivided to form new allotments the subdivider allowance is available to all owners of the original allotments. The bill allows for land situated in two or more valuation districts to be valued as one valuation, with apportionment between the two districts. Currently two separate valuations are required. The bill provides for valuation of land where only part of the land is taxable or rateable, whereas currently there is no provision for this situation. The bill clarifies that objections to valuations must be made within 60 days, although the Valuer-General can still accept objections outside this time. It will allow objections to be made after a land tax assessment is issued without the need for a valuation notice to be issued. An objector will now be required to notify every person to whom a valuation notice is required to be given. At present the owner of the land does not have such an obligation. The persons who must be notified include all persons having a stake or interest in the land who have received a valuation notice.

The bill also authorises the Valuer-General to supply New South Wales public authorities with information about valuations, in line with existing provisions for Commonwealth public authorities. The Coalition has some concerns about this bill. The principal concern is that it will allow the Valuer-General to conduct a new valuation whenever he or she feels like doing so. In light of all the attention currently given to land valuations, in particular with regard to land tax, a situation could arise when this provision could be taken advantage of by the Valuer-General. If the Government should decide it needs to raise more revenue from land tax, all it has to do in light of that provision is talk to the Office of State Revenue, which in turn will talk to the Valuer-General; the value of the land will be increased and more people will be caught up in the land tax net.

The Government could effectively hide behind the fact that the Valuer-General increased the value of the land, as opposed to the mistake it made last year when it attempted to increase land tax rates and remove the threshold. This is another way of doing just that and it will have the same impact on landowners. The Government can avoid the political ramifications and hide behind a government agency, thereby avoiding the political fallout that occurred last occasion. The Coalition is opposed to the bill because it is simply another way for the Government to effectively raise land tax rates without incurring the political wrath of the community.

**Mr IAN COHEN** [6.01 p.m.]: On behalf of the Greens I shall contribute briefly to the debate on the Valuation of Land Amendment Bill and refer to some of the issues raised by members of the Opposition. In some cases land valuations are raised in an abnormal manner. Often there are spikes when land valuations are increased, with the resultant significant hardship for people who find themselves in a land tax bracket that is not going to benefit them. These people often reside in tourist areas where various interests buy up the land, thereby increasing its value and creating a tourist market in land. The residents in those areas find themselves in considerable difficulties when the valuation of their land results in them being liable for unexpected taxes. Their only choice is to either join the industry of renting properties to tourists or move out.

There is a level of false security with the increase in the value of land, particularly in coastal areas—and certainly in my home town—that can catch people in a trap but does not add to their quality of life. As the Hon. Rick Colless said, it drives the value of land up to the land tax threshold without bestowing any benefit, other than increasing the coffers of the New South Wales Government, and in many instances it creates a degree of hardship. I believe there are some less than thorough processes involved in land valuation; it relies to a large extent on the established real estate prices in the region. I have had experience where the valuation reflects the asking price for properties, even though those prices may not be realised. Land valuation can be significantly out of kilter with real values and landowners suffer immeasurably as a result. With those few words, the Greens do not oppose the bill.

**Reverend the Hon. FRED NILE** [6.04 p.m.]: The Christian Democratic Party supports the Valuation of Land Amendment Bill, which amends the Valuation of Land Act 1916, the principal Act, to make further provision with respect to valuations under that Act. The bill also makes a number of minor amendments to the principal Act, which will allow for greater efficiency. A number of problems have arisen in regard to attempts

by various companies or individuals to find ways to evade land tax or reduce their land tax obligations. The bill will tighten up some of those areas to ensure that the legislation works fairly. The bill will amend the Act so as to enable the Valuer-General to make a new valuation of land, on his or her own initiative, at any time. At present certain land can only be revalued on the application of a rating or taxing authority.

Honourable members will be aware that land tax is perhaps one of the most controversial issues in this State. It could perhaps be argued that land tax is one of the most unfair taxes in this State because of its effect not only on those with a number of assets but on working-class people, particularly in coastal zones, both north and south, who may have purchased a modest fibro holiday house with the intention of providing for their retirement. Because of the way land values have changed in coastal zones, the value of those properties has skyrocketed and many individuals, a number of them pensioners, cannot pay their land tax. Many have been forced to sell the house in which they enjoyed their annual holidays and in which they planned to spend many happy years of retirement. Others may have purchased the property to sell later to provide for their retirement.

It is a tragedy. One only has to visit the coastal regions to see the many "For Sale" signs on the properties because people have been forced to sell when they cannot meet their land tax obligations. I do not know what the solution is. One solution would be to increase the tax threshold to a very high level, perhaps half a million dollars, in order to relieve these people of the tax burden. This issue is causing a great deal of distress across the State and I believe it is having an adverse effect on the Government's popularity. It is an area on which the Government should focus its attention to ensure that it operates in a more just manner. Many people are unhappy with their land valuations. At some point land values will rocket upwards, reach a peak, and then, as is occurring now, drift downwards from the peak, but the valuation remains static.

As I said, I believe that Government should pay close attention to this aspect. I know it has considered some minor changes but I believe it is an issue that requires the Government's complete attention. When the general purpose standing committee of this Parliament conducted its inquiry into the land tax issue, members of the committee were amazed at the number of cases of injustice that were brought to our attention by many hundreds of people in this State. It became clear that very many people were land rich but cash poor. Quite often they were widows whose husbands had died and they were still living in the marital property but could no longer afford to keep it. The committee heard of some cases in the Sydney metropolitan area around Sydney Harbour where widows had been left the family home, the husband having died. They were living in a reasonably simple house on what was very valuable land, but they had no cash to pay the land tax.

I remember one elderly lady who was distressed because her husband was buried on the site. It must have been some time ago; I do not know how that could have occurred. Perhaps only his ashes were buried on the site. She said she would be forced to sell the property because she could not pay the land tax. There are many thousands of sad stories in our city as a result of the impact of land tax. Our committee read many written submissions and heard face-to-face evidence. Most of the amendments are minor changes to tidy up the legislation. As far as we can assess, the changes improve the legislation, so we support the bill.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [6.10 p.m.]: Land tax is a vexed issue, and I endorse some of the comments of Reverend the Hon. Fred Nile on the subject. The problem is that the Federal tax system distorts investment in Australia so that investment in land generally is a no-brainer. People can make a fortune, thus they invest much more in land than perhaps they should have in terms of the national interest, when they should have invested in projects or enterprises that would have improved Australia's export performance. The Federal Government is encouraging overinvestment in land because land is taxed at a lower rate than other investments, and the State is doing quite well out of land tax. One feature of the land tax in New South Wales—indeed, State revenue generally—is that the Government has a formula by which it can simply extract money.

It is difficult to believe that valuations and the formula and percentages that result in land taxes and rates are not changed for elections. When valuations go up, the formula and the threshold change, but that does not happen in election years. If the Valuer-General were able to do valuations whenever he liked, one wonders whether that would be using the Valuer-General fundamentally as a tax revenue source. Some anomalies have been drawn to my attention. The most recent example is that of a couple who own two properties as tenants in common. If a married couple have properties and are tenants in common and one of them dies, the person who inherits the properties will be better off. If two people own half of two properties, the problem is that the rating is based on the total value of the two properties. However, if a married couple each owned one of two modest properties they would fall below the land tax threshold; if they jointly owned two properties valued at less than double the land tax threshold, and individually the properties are below the land tax threshold, the value of the properties would still be added together and collectively the couple must pay land tax on the two properties.

That is an anomaly. I have written to the Office of State Revenue about this matter. The reply I received was more or less "tough luck". I must tell my constituent, "I'm sorry about your parents, mate. It's tough luck." A more humane approach needs to be taken in such cases, especially as the threshold was introduced long after the land was purchased. It would be reasonable to make such changes prospectively, but many people have invested in land as a superannuation plan. Given the way John Howard encourages investment in land, that is a sound financial scheme. Therefore, it is a bit rough to change the rules in such a way that they affect people's retirement planning. A number of people in my suburb have had to sell their homes because of the effect of the land tax threshold. Many of them are land rich and cash poor, and have lots of difficulties.

The bill provides for the increasing use of private valuers. That will be a problem. A constituent of mine, Robert Cianfrano, has been studying the sale of the Sydney Markets land and the price that was realised. It appears that the Valuer-General valued the land at a certain level, and many years later the land was valued by a private valuer at a much lower level. That would make the land a unique piece of land in Sydney in the sense that its value went down over several years. It appears that the Government wanted to value the land at a very low level in order to sell the Sydney Markets Authority and privatise it—and it did so. The land was sold for a derisory sum. Interestingly, the Valuer-General was not party to the valuations that led to the sale. Robert Cianfrano has taken the matter through the courts, with great difficulty, because of the lack of transparency. The issue relates to freedom of information. The use of private valuers bothers me considerably, particularly because of the Government's total unwillingness to borrow money to build assets in the manner of previous governments, when bonds were issued, money was raised and assets were built.

This Government is trying to do everything from current expenditure. There is no significant borrowing. The Treasurer is puffing out his chest about the low level of State debt. Our credit rating is triple A. The Government is flogging off assets at bargain basement prices to developer mates in order to keep the State running. If the model of the Sydney Markets sale is followed again, the use of private valuers will be a considerable concern. Although the procedural aspects of the bill are not particularly worrying or exceptional, the way the Government behaves in regard to using private valuers and using the Valuer-General effectively as the man who sets the level of revenue for a large percentage of the Government's revenue is of considerable concern in the context of using land, selling land and valuing land. I do not know whether an amendment could improve the situation—certainly not an amendment that could be drafted quickly. I simply note those concerns as the Valuation of Land Amendment Bill passes through the House.

**The Hon. TONY KELLY** (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [6.17 p.m.], in reply: I thank honourable members for their contributions to the debate. I make the point that the Valuation of Land Amendment Bill is supported by the Local Government and Shires Association, and I commend it to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

## STATE PROPERTY AUTHORITY BILL

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

**Motion by the Hon. Tony Kelly agreed to:**

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

### Second Reading

**The Hon. TONY KELLY** (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [6.19 p.m.]: I move:

That this bill be now read a second time.

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

**Leave granted.**

Honourable Members will recall that, in December 2005, the Premier announced that the NSW Government would improve the efficiency of the public sector by establishing a Property Authority to centrally manage some government property assets.

This initiative was a key recommendation of a review of the management of government property, and it was reviewed and endorsed by the independent NSW Audit of Expenditure and Assets.

The State Property Authority Bill 2006 provides the legislative basis for this significant reform.

It is one element of a broad-based plan to ensure that the NSW finances remain strong.

In contrast to other current initiatives that are focused on recurrent expenditures, this represents an initiative in the area of asset management.

I anticipate that not only will it generate significant savings, but also it will improve the support provided to those agencies engaged in front line service delivery.

The Government has, for many years, followed a "decentralized" model of property asset ownership and management. That is, individual agencies have managed the assets provided to them, including property acquisitions and disposals.

Over the eight years to June 2004, the value of Government property assets has increased by about 80%, after adjusting for inflation. Some, but not all, of this asset growth is due to recent increases in property values. Adding to this source of growth are ongoing property expenditures that have added around $1 billion or more to capital budget outlays. Property assets have, in fact, been rising faster than expenditures on the government services that they support. As a result, the services "yield" of property assets has been falling.

A recent field survey of government property found that around 60%) of Government assets (by number of sites) are "generic"—for example, depots, car parks, offices and unused land. These are unremarkable working assets that can be used by any number of agencies. The remaining 400/0 of assets are "specialised"—tightly linked to the service delivery processes of a particular agency. Specialised assets include hospitals, schools and correctional facilities. The survey identified significant opportunities for getting better productivity out of generic assets.

In contrast to the decentralised management of property, the leasing of major office accommodation for the government is managed centrally through the Crown Property Portfolio. Costs in this area have risen at only a moderate rate and each agency follows a user pays system for its office accommodation.

A number of factors are contributing to the lesser performance of the government's owned property portfolio, compared with those managed by the Crown Property Portfolio.

Agencies' top priority is—quite appropriately—service delivery. With their efforts focused in that direction, property management does not command the same attention as their primary responsibilities.

Furthermore, it can be difficult for agencies to achieve the best value from their property assets as current budgetary arrangements do not explicitly price the resources that they absorb.

Agencies may underestimate the cost of their property assets, resulting in them being underutilised. They may also be unaware that other agencies may be able to utilise particular properties more fully. These factors will contribute to the disposal of surplus assets not being given a high priority.

Outside of the Crown Property Portfolio, there are few mechanisms to facilitate cross agency sharing of property assets.

The key element of the reform package, which will come from the legislation that I am introducing into Parliament today, is the creation of a central Property Authority to manage owned property assets and to centrally manage those leased properties that lie outside the Crown Property Portfolio.

The Bill contains provisions enabling the Governor, by order published in the Gazette, to include the property of Government agencies in Schedule 1 to the Bill.

However, as previously announced by the Premier, the Authority will focus on the management of generic assets, such as offices, car parks, depots and unused land. These are properties that, because they can be used by any number of agencies, may be redeployed by the Authority where that yields a benefit.

Iconic and specialised assets, in contrast, are often closely integrated with particular service delivery activities and so cannot easily be redeployed. Common examples of these assets are schools, hospitals, national parks and correctional facilities. Because they have specialised uses, there are fewer productivity gains from "centralised" management.

By and large, these specialised assets will continue to be owned and/or managed by their respective service delivery agencies.

In developing this reform, the Government has been particularly mindful to protect those properties that are truly "precious" assets.

Section 19 of the Bill, directly excludes the Authority from dealing in National Parks and Marine Parks.

Crown land will remain under the stewardship of the Minister for lands. Where it makes sense for the Authority to own specific Crown properties, these will be transferred to it from Government agencies on a case-by
case basis.

The House can rest assured that the lands reserved under the part 5 of the Crown lands Act will continue to be available for the most appropriate uses required by communities.

They will continue to be Used to deliver the variety of purposes and outcomes expected by communities, whether the land is reserved for show grounds, the scouting and girl guide movements, public reserves,
car State Parks and other reserves used for community, sporting and social purposes.

Such reserved lands will only be transferred to the Authority where specific parcels have been appropriately identified by the Authority and the Minister for lands agrees to the transfer.

These may be properties that are surplus to need or, more likely, can be amalgamated with other government land to deliver improvement in service delivery for communities.

Another important set of protections provided in this legislation apply to Aboriginal land rights.

The provisions in Schedule 3 of the Bill ensures that rights to make claims under the Aboriginal land Rights Act and under the Commonwealth Native Title legislation will be unaffected merely by the act of property being vested in the Authority.

The Property Authority will allow the gradual introduction of an internal rental charging arrangement so that agencies can more easily prioritise their property needs. These charges will be fully funded for properties
that are efficiently utilised.

It is important to acknowledge that the Property Authority is intended to add to measures that are already in place to promote better asset management. As part of the budget process the Government, scrutinises
asset usage, including property, in the context of agencies' service delivery strategies.

Putting all generic assets together to be managed by a central Authority offers at least six important benefits to service agencies:

1. more efficient and appropriate use of property assets by agencies, thus supporting their service delivery activities;

2. more efficient access to new properties as a result of the Authority's role as a central broker of existing assets;

3. more efficient asset disposals, due to greater specialist expertise in the Authority;

4. savings in maintenance costs by aggregating work flows;

5. savings in leasing costs by extending centralised leasing arrangements to include smaller premises; and

6. improved risk management from more centralised management of maintenance.

Estimates of possible savings are, at this stage, imprecise because they will be influenced by which (and when) particular assets are vested to the Authority.

However, in broad terms, it has been estimated that recurrent savings should amount to $80 million per annum by 2009/10.

I am confident that the State Property Authority will realise economies of scale and reduced spending on new properties by better utilising existing assets.

I commend this bill to the House.

**The Hon. PATRICIA FORSYTHE** [6.19 p.m.]: The objects of the State Property Authority Bill are to establish the State Property Authority and to set out the authority's objectives and functions, which are principally to improve operational efficiencies in the use of properties of government agencies; to manage, acquire and dispose of properties for the Government and government agencies, and finally to enable the Government to transfer to the authority specific property of a government agency by order published in the *Government Gazette*.

The Opposition opposes the bill. What would honourable members say if a member of the media asked later tonight or a person in the street inquired tomorrow what we did in the Legislative Council today? If one were to say we set up a new government authority with a chief executive officer, most people would roll their eyes. Why do we need a new authority? According to the Government we need a new authority because a review of the operation of the management, maintenance and disposal of property, found many government agencies wanting. They have not done their jobs effectively or efficiently. As a result of a review undertaken by the independent New South Wales audit of expenditures and assets, it was proposed that a new authority be created to do what existing authorities cannot do well.

The Opposition is not convinced. I took the opportunity to read the independent audit to inform myself of some of the concerns. If I were a member of the Government, I would be concerned. This is not a government that efficiently and effectively manages what it has. However, the Opposition contends that it is the responsibility of government agencies to do better rather than to create new agencies to do what existing agencies have failed to do. Under the heading, "Areas of investigation" the audit stated:

> From a Sample of the utilisation of government property assets, part of the Treasury review found that around 60 per cent of government owned properties are generic—for example depots, car parks, offices and unused land. Any number of agencies could use these assets. The remaining 40 per cent of sites are specialised—–tightly linked …

The audit refers also to hospitals, schools and correctional facilities. It notes that many of the generic assets are "underperforming or non-performing". Later the audit suggests that these sorts of things come under the radar of asset management within each of the government departments. In a budgetary sense they have a zero value, and it is suggested that if they come together under one agency, they will have a responsibility to do better.

It seems to me it is also a recipe for a number of other things, and that is the reason for the Opposition's concern. For example, we know that in recent years there have been corrupt practices in some government agencies with regard to the disposal of government assets. Indeed, the Independent Commission Against Corruption has looked into a number of such cases, including a matter involving the Roads and Traffic Authority and another involving LandCom. I would suggest that if a number of departments came together under one agency corruption would flourish.

Of real concern are the functions proposed for the authority, such as providing advice to the Treasurer in relation to properties and, in particular, whether such properties are effectively utilised; and providing advice to the Treasurer about measures relating to the properties of government agencies and the transfer of properties. In other words, we are talking not only about the acquisition and maintenance of properties but also about the disposal of properties. The notion of public land being an asset for easy disposal seems to be at the core of the Government's approach.

The Government is not talking just about land in national parks, historic sites, State conservation areas, regional parks, nature reserves, conservation reserves or marine parks. All such land would be exempt. But a good deal of other land could be included. We see this as an easy opportunity for the Government to dispose of land.

We have read the report that underpins the bill, we have listened to what the Government has said by way of the Premier's announcement in December 2005 and we have sought advice from a number of organisations around the city. None of this has given the Opposition any compelling argument to support the creation of a new authority. When advised that their agencies were not efficiently and effectively acquiring, maintaining or disposing of property the Government sought only to create a new authority to address the issue, including the maintenance of registers of owned property. Surely, the first step should have been to determine whether existing agencies, if given some sort of priority, could do better at one of their core responsibilities—that is, managing their own assets.

This is a clear indication that government authorities are failing to manage their own assets. The way out for the Government is to create another authority and to do what government authorities are currently failing to do. As far as the Opposition is concerned the Government has not demonstrated that this is the only way forward. There is no evidence that the Government has tried to do better with what it has. Accordingly, the Opposition will cause the House to divide on this bill.

**Mr IAN COHEN** [6.27 p.m.]: Ms Lee Rhiannon, who has carriage of this matter for the Greens, did not expect this bill to be debated at this time. I know it is par for the course for this Government, but this bill was not listed for debate today. If this is part of the process of democracy, it is an interesting way to go. The Greens have concerns about this bill. Various departments are doing a less than desirable job managing their properties. For example, in my hometown there are quite a few issues over rail property.

By establishing yet another authority all the Government is doing is rearranging deck chairs on the *Titanic* rather than resolving issues and coming to grips with the management of quite significant assets in New South Wales, whether they be rail properties, Crown land or other properties managed by the various portfolios. If properties are to come under a single authority, presumably Treasury will have a greater say in the disposal of unused or underutilised lands in various areas. That could create a situation in which our assets are flogged off at bargain basement prices. We have seen it before from this Government, and we are seeing it now.

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

[*The Deputy-President (The Hon. Penny Sharpe) left the chair at 6.30 p.m. The House resumed at 8.00 p.m.*]

## LIEUTENANT-GOVERNOR'S SPEECH: ADDRESS-IN-REPLY

### First Day's Debate

**The DEPUTY-PRESIDENT (The Hon. Christine Robertson):** I report the receipt of a copy of the Speech made on Monday 22 May 2006 by His Excellency the Lieutenant-Governor, which is recorded in the *Minutes of Proceedings*.

**The Hon. PENNY SHARPE** [8.00 p.m.]: I move:

> That the following Address be adopted and presented by the Whole House to the Governor, in reply to the Speech which His Excellency had been pleased to make to both Houses of Parliament.
>
> To His Excellency the Honourable J. J. Spigelman, Companion of the Order of Australia, Lieutenant-Governor of the State of New South Wales in the Commonwealth of Australia.
>
> MAY IT PLEASE YOUR EXCELLENCY
>
> We, the Members of the Legislative Council of the State of New South Wales, in Parliament assembled, desire to express our thanks for Your Excellency's Speech, and to express our loyalty to Australia and the people of New South Wales.
>
> We assure Your Excellency that our earnest consideration will be given to the measures to be submitted to us, and that we will faithfully carry out the important duties entrusted to us by the people of New South Wales.
>
> We join Your Excellency in the hope that our labours may be so directed as to advance the best interests of all sections of the community.

I am honoured to have been given the opportunity to move the motion for the adoption of the Address-in-Reply to the Lieutenant-Governor's Speech on the opening of the second session of the Fifty-third Parliament. I wish to thank His Excellency the Lieutenant-Governor, the Hon. James Spigelman, for his Speech, which conveyed messages from Her Majesty the Queen and from Her Excellency Professor Marie Bashir on the 150th anniversary of the establishment of our first democratic Parliament. I also take the opportunity to pay tribute to the Lieutenant-Governor's long-term commitment to justice and public service in this State, and I acknowledge the ongoing contribution he makes within our community to these issues.

The opening of the second session of the Fifty-third Parliament took place on the 150th anniversary of the first meeting of the first elected Parliament of New South Wales. One hundred and fifty years ago the people of New South Wales established an elected Parliament of their own. The Parliament that gathered 150 years ago was a parliament of men that had been elected by male landowners and leaseholders. Universal male suffrage was gained two years later. However, women's suffrage was still 46 years off. For Aboriginal people, the unrestricted right to vote was not gained until 1962. That meeting 150 years ago was a first step in the journey to democratic independence—the people of New South Wales governing for themselves. This legislature has developed and implemented many important democratic principles: universal suffrage, a secret ballot, an elected upper House and the principle of "one vote, one value". It is a journey that has come a long way but, I believe, remains incomplete, and it will remain incomplete until the day that Australia becomes a republic with the ability to have one of our own as our head of state.

The Lieutenant-Governor outlined the circumstances of the meeting of the first Parliament. I was struck by the contrasts and the similarities. In 1856 the population of New South Wales was 288,000 compared with more than 6.7million today. It is important to note that the Aboriginal people of this State were not counted nor even considered at that time. One hundred and fifty years later there remains much unfinished business with the indigenous people of this land. Together with many members of the House, yesterday I attended the funeral of Rick Farley, former head of the Cattleman's Union and the National Farmers Federation and a member of the Reconciliation Council. He was, of course, the partner of our colleague the member for Canterbury, Linda Burney. I am sure all members of the House extend their condolences to her on her terrible loss. Rick Farley was described as someone who "was a champion who carried the vision of reconciliation and justice for indigenous people in his heart and in his hands". Rick was able to create a path through real and complex issues to advance the cause of justice. Let us hope that Rick Farley's contribution to public life means that the path to reconciliation and justice is a little shorter.

In 1856 the issues outlined by our first Premier included the need for skilled labour, increased infrastructure and aspects of the economy, particularly in relation to housing. Just as previous governments have sought to find solutions to these issues, so it is that the Iemma Government continues to find solutions to the issues confronting New South Wales in 2006. The Lieutenant-Governor outlined the Government's upcoming

legislative and budgetary agenda. I will not go into every aspect of this agenda, but I want to outline the Government's focus on social justice, fairness, sustainability and investing in our people through training and jobs. It is a Labor agenda. Looking after vulnerable people in our community is fundamental to delivering social justice. The Government's measures to support people with a disability and the older members of our community through Home and Community Care services are part of this agenda. So too is the availability of quality health services for our children through community-based services and our specialist children's hospitals. I welcome the continued focus on improving support for people with a mental illness.

In all our diversity, it is the commitment to a fair go that has universal acceptance within the Australian community. This commitment has been broken with the introduction of the Howard Government's WorkChoices laws. Bosses now hold all the cards in a system devoid of fairness. These laws have produced fear and instability in our most vulnerable workers. They have forced workers into a race to the bottom where all entitlements are stripped away and all that matters is trying to hold onto a job. The High Court challenge, led by this Government, is part of the fight to place fairness back at the core of our industrial relations system—into our workplaces and into our communities. In addition to the challenge, the protection of New South Wales workers through legislation and the commitment to maintaining a State-based industrial relations system demonstrates that it is only the Iemma Government that is committed to a fair go in New South Wales.

The Government's agenda for the coming months also includes an emphasis on sustainability. Climate change is a reality that requires a response from every level of government. The development of gas-fired power plants is an important step. Finding sustainable ways to supply the water our communities need and conserving the water that we have in a time of profound climate change will be an ongoing project for every government into the future. I welcome the initiatives in this regard outlined in the Lieutenant-Governor's Speech. The increasing use of public transport is another way to improve the sustainability of a global city like Sydney. An updated and improved train system and systematic bus reform coupled with new buses and new rolling stock will make an important contribution to higher public transport use. The building of the new rolling stock is also a generator of jobs in regional New South Wales, particularly in the Hunter. Up to 2,000 high-skill, front-line jobs and up to 1,500 supplier jobs will be generated as a result of this investment. The new rolling stock will also support the training of apprentices in areas of chronic skill shortage within the manufacturing industry. The training of these apprentices will bring benefits long after this contract has finished. It will provide New South Wales with highly trained tradespeople for the future.

Skills shortages are constraining the Australian economy. This constraint will have many long-term implications, not least of which is the pressure that it puts on interest rates. The Reserve Bank, business groups, employers and this Labor Government have all recognised this aspect. The Federal Government has done little. On the back of $250 million cuts to the TAFE system, a failing technical colleges program—I note only one failed college in New South Wales—and massive employer incentives in industries that are not suffering from skill shortages, the Federal Government's solution to this problem is to import skills from overseas. In the meantime the Iemma Government is expanding vocational education and training in schools through 10 new trade schools, which will give New South Wales the skills it needs into the future. More importantly, they will give young people in this State the widest range of education choices to enable them to stay on until year 12 and to look to the future with optimism.

It is a major Government achievement that crime rates are stable or falling. The Lieutenant-Governor noted some of the reasons for this. However, what he did not outline was some of the important work that has been done in relation to crime prevention in recent times. The $50-million Community Solutions and Crime Prevention Strategy has worked with 26 communities and assisted in a number of practical ways to target and reduce crime. The strategy has also piloted a number of innovative, community-driven approaches to crime reduction. Of particular importance is the work done in relation to domestic and family violence across the State.

One such program operates in Taree, where a joint project between the Police Force and the women's refuge provides immediate crisis intervention and early support for victims of domestic violence and their families. It is achieving good results. The program has assisted more than 400 women and children who are victims of domestic violence. The results include fewer assaults and fewer call-outs for local police and, most importantly, increased safety for women and children in that community. Reductions in crime rates are a result of many forces operating together. The introduction of innovative programs, such as youth justice conferencing, circle sentencing and the Drug Court, are important and successful developments. In relation to managing the harm caused by drugs in our community, increased treatment places and increased methadone and other pharmacotherapies places have also contributed to reducing crime.

I cannot let this opportunity pass without placing on record the impact of the Federal Government's decisions regarding service delivery in New South Wales. In 1856 Queensland was still a part of New South Wales—perhaps if this were still the case the $3-billion GST rip-off would not still be taking place. The Howard Government's impact is felt not only in lost GST revenue. The hallmark of the Howard and Costello years has been a long-term and sustained withdrawal of funding for vital services. The Federal Government has overseen tax reform that has sold out the public good for private gain and generated year after year of multibillion-dollar surpluses. Universities, TAFE, housing, public schools, community services and health have all felt the impact. These multibillion-dollar surpluses have not been used to further social justice, they have not been used to improve the environment and they have not been used to provide for the future education and health needs of Australia. On too many occasions they have been used to pork-barrel the Howard Government back into power. Labor's commitment to maintaining these services, in spite of being starved of funds, is the reason that the people of New South Wales continue to support Labor governments.

The Lieutenant-Governor reflected on the great achievements of democracy in New South Wales and on the importance of politics as the essence of our democracy. Former Premier Neville Wran recently made some important comments about our democracy. He stated:

> Democracy is still a work in progress.
>
> When we of the West talk about building democracy and spreading democracy and even fighting wars for democracy, we ought to have the grace to realise our own shortcomings and our own hypocrisies.
>
> We talk as if these values—
>
> democratically elected assemblies, equal representation, the sanctity of the ballot, the secular state, freedom of religion, including freedom from religion, as a political test, the equal status of women, the right of organised labour, the rule of law, the independence of the judiciary, the presumption of innocence, a citizen's right to privacy, the criminality of state torture, the sovereignty of peoples and nations under international law—
>
> We talk as if these things were all self-evident truths and inalienable rights which we uphold as universal, immutable and immortal.
>
> We talk about them as if we guaranteed them in our own societies.
>
> In all our arrogance, we talk about these values as if they were so much part of the natural order of things from time immemorial, that we have a divine right to impose them on the rest of the world, even if it means war.
>
> Yet there is not one of these values—not one—which has not been under challenge, in our own societies—in the life-time of every one of us in this room.

There is much to be proud of, but that does not mean that our democracy is perfect or that it does not need constant attention. I am very pleased to commend the motion to the House.

**The Hon. GREG DONNELLY** [8.16 p.m.]: It is with great honour that I second the motion for the adoption of the Address-in-Reply to the Lieutenant-Governor's Speech on the sesquicentenary of responsible government in New South Wales. With this anniversary we celebrate the greatest gift people can have: the freedom to choose their own government, and the peace and stability that makes such an achievement possible. We are celebrating the advent of parliamentary democracy: the idea that ordinary citizens can not only choose their government but be part of it—a Parliament chosen for the people, by the people and from among the people. We achieved all that just 68 years after white settlement, when convicts were still being transported to other parts of Australia, and we did it without revolution or war. We achieved it as Australians always achieve things, through reasoned debate and discussion, through the fearless reporting of a free press and through the voluntary efforts of active and informed citizens interested in their country's welfare.

Parliamentary democracy is one of Australia's greatest achievements and it started here on this land 150 years ago. We have not wasted the opportunities of those 15 decades. We have made the journey from a fledgling colony to a thriving, sophisticated State. We have become a social success story—a vibrant, tolerant and diverse community at home in our world and our region. We have become an economic success story and the most globalised State in Australia with strong foundations of lasting prosperity. We have spread throughout the State a network of schools, hospitals, railways and other facilities that have brought access and opportunity to all our citizens. We have conserved the finest of our landscapes in a network of national parks that is the envy of the world. We have built projects of lasting significance such as the Sydney Harbour Bridge, Warragamba Dam and the Sydney Opera House. And we have entrenched our democratic rights and freedoms with developments such as the secret ballot, votes for women and full political and civil rights for indigenous Australians.

Wentworth, Donaldson and the other pioneers of 150 years ago built a system that has withstood the test of time. It is a system that has secured the rights and freedoms of the people of New South Wales for 150 years, through hard years of war, depression and drought and though our long years of prosperity and success. This Government will continue to devote itself in a very focused way to securing and further strengthening the economic foundations of New South Wales. This Government is determined to ensure that New South Wales will continue as the premier State of the Commonwealth. It has announced cuts to taxes 11 times in the last nine months. Vendor duty has been abolished; workers' compensation premiums have been cut twice—15 per cent in total; the land tax threshold has been lifted, exempting almost 390,000 investment property owners who paid land tax last year; an agreement has been reached with Clubs New South Wales to reduce poker machine tax; and home loans, rental agreements and leases have been made cheaper by the abolition of various stamp duties.

The Government will continue its dialogue with employers, both large and small, through the Premier's Business Roundtable, which was established earlier this year. New South Wales is well and truly open for business under Labor and this Government intends to keep it that way. In the year ahead the Government will continue to implement plans to make government more efficient, and fiscal responsibility will continue to be a high priority. The Government will continue to campaign for a fair go for New South Wales taxpayers with respect to a more equitable distribution of GST revenue from the Commonwealth. Being short-changed almost $3 billion each year is grossly unfair to the taxpaying citizens of this State. Those citizens expect all their elected representatives, whatever their political persuasion, to continue to press the Commonwealth until a more equitable outcome is achieved. It is about time all members of this Parliament got on board and helped to bring about this outcome sooner rather than later.

As we move to secure our economy, the regions have not been forgotten by the Iemma Government. It has delivered a $140 million plan to transform Port Kembla into Australia's leading car import centre, securing more than 1,000 direct and indirect jobs. That will have important impacts on the regional economy in the Illawarra. North of Sydney, up to 400 new jobs have also been created in the Hunter region, following the signing of a 10-year deal between luxury yacht-builder Azzura Marine and the Newcastle Ports Corporation. The company, which is based on the Gold Coast, elected to expand its super-yacht facility in the Hunter, attracted by the deepwater port and the region's history of highly skilled marine shipbuilding. And from the coast to the bush, the $176 million Bemax mineral sands mine and processing plant will create 1,999 full-time jobs in Broken Hill and the Far West, injecting $16.2 million a year to the regional economy.

The Government is committed to giving all regions in New South Wales a fighting chance to attract business and investment. That is why we introduced a $90 million payroll tax incentive for start-up businesses and businesses that relocate or expand in areas of New South Wales with higher than average unemployment rates. This will be essential in helping places like the Central Coast and the North Coast fight unemployment and develop strong regional economies.

The Government is committed to ensuring that our community throughout the State continues to be one of the safest in the world. We will have 750 new police recruited by January to help put more officers on the beat, and there will soon be record police numbers of 15,200. We have introduced majority verdicts in courts so that one juror cannot hold up an entire case. On our watch, crime rates in most categories are stable or falling. And to meet the new threat emerging in the twenty-first century—terrorism—we are developing new initiatives to keep New South Wales safe. This includes a comprehensive central business district terrorism evacuation plan to assist people evacuate safely in the event of an attack. It is the first plan of its kind in the world. The Government will also continue to tackle criminal gangs. It will continue to ensure that front-line police have the powers, equipment and training they need to curb violence and push down crime to even lower levels.

We are continuing to build on our already world-class health system. We have recruited 5,629 nurses to the State's public hospitals in the past four years; we have cut long hospital waiting lists by 75 per cent in the past year; we have made several New South Wales hospitals elective surgery centres to reduce elective surgery waiting lists; we have worked with the Commonwealth on a $1.8 billion Council of Australian Governments mental health package; and this year we have spent an additional $8 million on paediatric critical care in the State's three children's hospitals. Much has been achieved but much more remains to be done. This Government will continue to work at providing the people of New South Wales, no matter where they live, with a first-class health system.

In the vital area of transport policy, the Government is working hard to improve services. Over the next five years we will purchase 505 new buses for the State Transit Authority, an investment of around $250 million; we are rolling out the Government's $1.5 billion Clearways Program, designed to make the rail

network operate more efficiently; we have placed more than 730 new state-of-the-art, airconditioned rail carriages on order, with the first to enter service in the next few months; and we have introduced a new rail timetable, which increased reliability to around 91.5 per cent in its first four months and resulted in passenger growth of around 90,000 people a week.

The education of our children will ensure that New South Wales continues to lead the way into the future. We are building 10 brand new schools in addition to the 95 new and replacement schools built since 1995. That is more than 100 new schools to make sure that as our population grows there is a desk in the classroom for every child. And we have announced plans to set up 10 new trade schools to tackle skills shortages. The trade schools will be attached to existing high schools and TAFE colleges, with the first to open at Colyton High School in Western Sydney.

We have also introduced new, clearer school report cards to help parents who want to know how their children are going at school. The Government introduced civics classes to teach our children about Australian history. Now we have added respect and responsibility to the school curriculum to ensure that young people learn how to become productive members of our community. We have also made it compulsory for all government and non-government schools to sing the National Anthem at their assemblies. Furthermore, the Government has supported, and will continue to support, parents who choose to send their children to non-government schools.

The Iemma Government continues to build on Labor's proud tradition of protecting and preserving our environment. We have introduced the biggest environmental spending package in New South Wales' history—a $426 million City and Country Environment Restoration Program to revive our wetlands and rivers, cut waste, and clean up our environment. This will help ensure our natural environment can be enjoyed now and by future generations.

Other highlights of the Government's achievements include a $1.2 billion plan to rebuild and revitalise the State's ports; passing new laws that will empower the Minister for Planning to ensure councils deliver on their planning responsibilities; spending $1.66 billion over the past 10 years to upgrade the Pacific Highway—one of Australia's major road arteries—compared with the Commonwealth's outlay of $660 million; unveiling the Metropolitan Water Plan with its important focus on water recycling; and providing $178 million to provide home and community care services, such as Meals on Wheels, domestic assistance, transport and the like, to 178,000 vulnerable people with a disability, as well as the frail aged and their carers.

Work is for the person, not the person for work. People are not mere economic units or factors of production. They are much, much more, each and every one of them. Outcomes at the workplace with respect to wages and working conditions should not be driven primarily by market forces. Such an approach brings hardship and unfairness, especially to individuals who are not in strong bargaining positions—the unskilled, women, and the young. The Commonwealth's WorkChoices legislation is already having a devastating impact on ordinary working people in this State. People are being terminated for no just cause.

**The Hon. Melinda Pavey:** Do you know anyone?

**The Hon. GREG DONNELLY:** I know plenty. Rates of pay and working conditions are being stripped away. Workers are being pressured to sign individual workplace agreements that abolish entitlements such as loadings, penalties and overtime. It is not even two months since the new laws commenced and the New South Wales Office of Industrial Relations has received more than 30,000 complaints. The majority of these complaints have been from people who have had their workplace entitlements paired back, have been threatened with dismissal or, indeed, have been dismissed. The Federal Government never sought, and did not get, consent to enter into and trespass on the wages and working conditions of the ordinary people of this State. It is for this reason that the New South Wales Government has led the other States in challenging in the High Court the Commonwealth's grossly unfair WorkChoices laws. Let there be no doubt about what is at stake here: we are talking about the very livelihoods and living standards of millions of Australian workers and their families.

The State Government, in addition to the High Court challenge, continues to support the State industrial relations system. We have also passed legislation to shield New South Wales public sector workers from the effects of WorkChoices. This is in stark contrast to the Opposition, which fully supports WorkChoices and is committed to handing over the New South Wales industrial relations system to the Commonwealth. Our obligation today as members of this Parliament is simple: to make sure our democratic rights and freedoms are not taken for granted and that our achievement of them is never lost or obscured. Recently we have all observed

examples in other parts of the world where fledgling democracies can struggle to take root and prosper. In our own region we have seen how corruption and cronyism can undermine popular support for democracies that are in their early stages of development.

Our democratic rights and freedoms are precious and we should not take them for granted. They should not be squandered but, rather, handed on intact to the generations who will come after us. That is the least we owe our forbears who gave us this gift of democracy. That is our duty and our trust as we celebrate the 150th birthday of this Parliament and the fundamental rights and freedoms it expresses and protects. In conclusion, I would like to thank the Lieutenant-Governor for his wise and generous speech. I commend the motion to the House.

**The Hon. PATRICIA FORSYTHE** [8.29 p.m.]: As the Parliament celebrates the remarkable achievement of 150 years of continuous responsible government we should reflect on the importance of that achievement against a world where the rights and freedoms embodied in our democracy remain beyond the reach of many of the world's population. I do not believe that we can underestimate the significance of the fact that what we have achieved as a State is, in large measure, the consequence of being grounded in strong, stable institutions. The presence of His Excellency the Lieutenant-Governor to deliver to members from both Houses a message from Her Majesty the Queen, and His Excellency's Speech acknowledging the sesquicentenary of the Parliament and outlining the Government's plans for the remaining months of its term of office, provided the link in our continuous and evolving democratic institution. I thank His Excellency for his attendance.

There can be no greater privilege in a democracy than to serve in Parliament, save only that of carrying the responsibility of being a Minister. What we say and do in this place is, in reality, of greater significance than the portrayal of Parliament we see too often in the media and the occasional frivolity that occurs in this place. Whilst the powers and processes of the Parliament have evolved over the 150 years, in reality it is a strong constant in an ever-changing world. Despite the fact that many in the colony had arrived as convicts, were first generation descendants of convicts or were recent arrivals chasing material wealth through gold discovery, they were confident enough to see themselves as a community that could govern itself. Remarkably they were successful.

Yet today, despite all the advantages our society has to offer, the Government has signalled that the sense of community is under threat and that it will be necessary to rebuild a culture of respect and responsibility. Indeed, the Government has signalled that a respect and responsibility agenda is to be enacted through schools and in the community. Communities that are rich in opportunities, that are inclusive, where the differences between rich and poor are gradual, and where opportunities are there for all, are the key to a strong, secure future. That is what should be at the heart of the Government's agenda. After 11 years in office the Iemma Government, by its own words in the Address of the Lieutenant-Governor, has admitted that it has failed the State.

Despite all the barriers, 150 years ago the 288,000 members of the colony of New South Wales had the strength and confidence to shape a democracy that has endured. They had a vision. His Excellency described the mood 150 years ago as optimistic. He did not describe today in such terms. Today we so badly need a vision. No-one listening to the Address on Monday this week could have left feeling in any sense buoyed by what they heard. The Carr-Iemma Government has been in office for more than one-fifteenth of the period of self-government of New South Wales, with all the opportunities brought about by hosting the Sydney 2000 Olympics and Paralympics and all the opportunities that have come with the strong economic management of the Liberal-Nationals Howard Government in Canberra.

The principles that the Government has highlighted, of respect and personal responsibility, should be lauded by all of us; they are basic tenets of liberal thought. But where I take issue with the Government is the policies it proposes to achieve its goals. Clearly, schools have a fundamental role since they capture all the population between the ages of six and 15 and most of the population from five to 17 years, but waiting until children reach school may be too late for children who live in dysfunctional families. Schools should be the institutions that reinforce values learned at home and observed by our youngest children in the community around them. It goes without saying that children who are respected by their parents and family, and who therefore learn respect, will give it naturally to their teachers and to the community. Policies that go to the dysfunctionality of families were missing from the agenda outlined in His Excellency's Address. Early intervention is the key. Some years ago the Rand Corporation in the United States of America identified the principle that $1 invested up front will mean $7 saved.

We spend vast resources on picking up the pieces of shattered lives, yet we do not address the basics. Poor discipline at school is a symptom of problems as much as it is a problem. Helping families to be stronger and making communities stronger to support families must be the starting point. I did not hear from the Government any proposals to use the school curriculum to better prepare young people to understand, for example, the responsibilities that come with the rights of parenthood. As a member of the Coalition I remain proud of our achievements in government, especially the initiative trialled known as Schools in Communities. The program brought many services of government together, such as health and housing agencies. Schools were the physical centre for the initiatives, which ranged from fathers groups to the local Neighbourhood Watch. Of key importance, however, were new mothers, to identify children at risk. There is no substitute for addressing the underlying causes of family stress. Unemployment, poor housing, mental illness and substance abuse are factors that require a new agenda.

The Government spoke of an economic agenda. As a Liberal I know that the best approach would be to cut the taxes crippling business in New South Wales and pricing young people out of the property market, especially in Sydney. When family members work hours away from where they live and they then face the daily frustration of a transport system that is neither effective nor efficient, it is no wonder we hear the Government expressing concern about school discipline and the breakdown of community. Poor discipline at school is related to factors not associated with malice, such as the epidemic of so-called attention deficit disorders for which our teachers are given scant resources to support their work.

One cannot have a focus on discipline without adequately funding strategies to address behavioural problems outside behavioural norms. Breaking up the Gordon Estate at West Dubbo, as proposed by the Government, may end the law and order issue in that community but it will not solve the problems that have given rise to the riots and general disrespect for property in the area. What are missing are policies that deal with causes rather than symptoms. The lack of community is very real in many parts of the State. We have anonymous communities where people keep to themselves, having no idea of their neighbours, and having no sense of collective responsibility. The Carr-Iemma Government has dismantled some of the vehicles that may have been used to address this. I think, in particular, of the Neighbourhood Watch scheme where people met at the neighbourhood level with local police to discuss local crime issues and where neighbours looked out for each other's property. If we are serious about reviving a sense of community in our suburbs, we should reconsider that cheap but effective initiative.

Feeling safe in one's neighbourhood requires not only a strong police presence but also a confidence to live amongst one's neighbours. Neighbourhood Watch gave neighbours a reason to come together, to break down barriers, and to focus on common interests. If the goal is to build communities, it makes some sense to fund and promote programs that derive their reason for being from the common good. Providing better support for volunteer groups would do much to promote the sense of community that the Government has identified as lacking. I have long advocated a policy of police in schools—not as a punitive approach to discipline but as an effective early intervention strategy. In British Columbia every school has a police officer attached. The consequence is that police frequently have early intelligence on gang problems, potential crime and drugs. What is more important is the fact that police develop links with students. They work with students to build respect—exactly what this Government has set as its agenda.

Western Australia has long had a similar approach: police liaison that builds respect and trust. The Government has said it will rebuild a culture of respect and responsibility. I applaud those goals; they are fundamental to a liberal, democratic society. So too are certain inalienable rights, in particular freedom under the law and equality before the law. A strong, robust community requires a safe community, but it must not come at the price of our fundamental rights. One hundred and fifty years ago the founding fathers set an example we must cherish. If they fell short of universal suffrage, in the granting of full male suffrage they were ahead of their time. The men and women of New South Wales have important rights and freedoms today. What stands between us and a strong, buoyant economy is not people; it is the taxes and the red tape that are wrapped around and strangling our economy. What stands between New South Wales and great success is the Iemma Government. It is time for a change.

**Reverend the Hon. FRED NILE** [8.40 p.m.]: On behalf of the Christian Democratic Party I support the motion for the adoption of the Address-in-Reply to the Lieutenant-Governor's Speech. The motion is addressed to His Excellency the Hon. J. J. Spigelman, Companion of the Order of Australia, Lieutenant-Governor of the State of New South Wales in the Commonwealth of Australia, and it reads as follows:

MAY IT PLEASE YOUR EXCELLENCY—

We, the Members of the Legislative Council of the State of New South Wales, in Parliament assembled, desire to express our thanks for Your Excellency's Speech, and to express our loyalty to the Sovereign.

We assure Your Excellency that our earnest consideration will be given to the measures to be submitted to us, that we will faithfully carry out the important duties entrusted to us by the people of New South Wales,

We join Your Excellency in the hope that our labours may be so directed as to advance the best interests of all sections of the community.

I fully support the motion, but as I considered the wording I noted that it includes the phrase "to express our loyalty to the Sovereign"—and, of course, the Sovereign is Queen Elizabeth II, the Queen of Australia. I was pleased to hear the Lieutenant-Governor read a special message from the Queen to the joint session of both Houses of the New South Wales Parliament as we celebrated the 150th anniversary of the establishment of responsible government in New South Wales. But there seems to be a contradiction in those words when considered in light of recent actions that the Christian Democratic Party strongly opposed—when references to Her Majesty the Queen and to the Crown were removed from the members' oath of allegiance and when the Queen's portrait, celebrating her last visit to New South Wales, was removed from its place in the foyer of the Parliament and hung in the lift area.

I raised that issue with the artist who painted Her Majesty's portrait—in light of a statement that the painting had to be removed to protect it from the sunlight. The artist told me that she had selected the position in the foyer where the painting had originally been hung, and that the Queen's portrait would not have been damaged because it was well protected from the sunlight. Recently the portraits of Queen Elizabeth II and the Duke of Edinburgh were removed from the Strangers Dining Room and were later found hidden in the Parkes Room, out of sight. As honourable members will also be aware, eventually a bill was passed to remove the Royal coat of arms from courthouses and other public buildings in this State. I am pleased to note that the Royal coat of arms is still displayed in this Chamber, and I hope it will remain here, even if only as part of the heritage of this building. In my view, no change should be made in that regard by governments of any political persuasion.

The changes I have referred to were supported by a number of members of this House, but I have always stated that such changes should not have taken place until the Australian people had voted for such changes—not a political party, not members of Parliament, but the people of this State. We have talked about responsible government and the fact that the people of New South Wales were given an opportunity to elect a government. That is why our Constitutions, particularly the Australian Constitution, have built into them these various requirements relating to referendums, so that any attempt to make Australia a republic must be done by way of referendum.

As we all know, a referendum was held and the vote for Australia to remain a constitutional monarchy was overwhelmingly successful in all States of the Commonwealth. The point I make is that no change should be made until the people have spoken—if they do speak at some future date, which I now doubt will happen. I believe Australia will continue to be a constitutional monarchy, as has happened in Denmark, Japan and other countries. There is no time limit on constitutional monarchies. Some of the monarchies to which I referred have been in existence for a thousand years. We will wait and see, but I believe any decision must be made by the people of Australia in a free and open referendum.

As part of the celebrations for the anniversary of 150 years of responsible government in New South Wales I attended the ecumenical service of prayer and thanksgiving held at St Stephens Church in Macquarie Street, opposite this Parliament. In an informal way it has become a place where over the years ecumenical services have been held for the sake of convenience. The services could, of course, be held at St Marys Cathedral, St Andrews Cathedral, or elsewhere, but they have been held at St Stephens for the convenience of members of the New South Wales Parliament. As I said, I was pleased to attend the service and to see the church reasonably full with members of the public and quite a few members of Parliament . I realise that an important funeral service for Rick Farley was held at the same time, which many members felt obliged to attend. Obviously, that was the correct thing for them to do.

The sermon was given by His Eminence Cardinal Pell, the Catholic Archbishop of Sydney. It is posted on the web site and I would urge honourable members to read it. I will be happy to supply a copy if required. In his sermon Cardinal Pell addressed members of this Parliament and dispensed some very wise advice for the next 150 years. The Venerable Dr Geoffrey R. Huard, representing The Most Reverend Dr Peter Jensen,

Anglican Archbishop of Sydney, led the prayers, and the service was led by Reverend Dr Matthew Jack. The first of the *Bible* readings, Psalm 67 from the *Old Testament*, was read by the Lieutenant-Governor of New South Wales, the Hon. Justice J. J. Spigelman, AC, and the *New Testament* lesson Romans 12:2-18 was read by the Speaker of the Legislative Assembly, the Hon. John Aquilina.

The choir that took part in the service, The Cathedral Singers, added inspiration and quality to the service, and I am sure all those who were able to attend were blessed by being present. I have been somewhat troubled by the phrase "responsible government". I understand that the word "responsible" is used to indicate an elected government, and I hope we do not infer from the word "responsible" that the Legislative Council, which operated from 1823, was irresponsible. I would say from my reading of the activities of members of the Legislative Council that they were responsible, even though they were not elected. As honourable members know, the first Legislative Council was established in 1823 with members nominated by the Governor. They consisted of heads of various departments in the State, such as the Surveyor General, who was responsible for the State's buildings, the medical officer, and others including representatives of the military.

One of the other representatives was the archdeacon of the colony. I understand that was Archdeacon Scott, and later Archdeacon Broughton, who became Bishop Broughton. Interestingly, there has always been a representative of the Christian faith in the Legislative Council, certainly in the early years, and at other times in both Houses of Parliament when members involved with the church were elected. In looking at the history of the Legislative Council on this important occasion, I note that next to the side door into the Chamber is a sign titled "A Little Piece of History …", which I asked the attendant to photocopy for me. The sign provides a summary of the history of this building, and states:

> In 1855, with a new bicameral (two House) Parliament due to come into existence in the following year, it was decided that the new Legislative Assembly would take over the existing Council chamber and a new chamber would be found for the Legislative Council. In February 1856, a prefabricated iron building in Melbourne, Victoria was purchased for the Council. The building, made in England, had been shipped to Melbourne and was originally intended for use as a church or accommodation on the gold fields at Bendigo. The iron building was purchased for £1,835 and shipped to Sydney aboard the *Callender* and delivered to the Macquarie Street site in March 1856. In April, a tender for £4,475 was accepted from Mr Thomas Spence to erect the building on the southern end of the former Surgeon's Quarters, together with adjacent rooms and offices, and to provide internal fittings. Initially, the inner walls of the iron frame chamber were lined with the boards from the packing cases in which the building had been shipped to Sydney. These were covered with hessian and the wallpaper was plastered over this. The walls have been reconstructed since but a small section of this thrifty original arrangement has been retained and a small door cut into the wall to show visitors.

In the doorway people can see the packing case boards that held the iron pieces that made up the building that was shipped to Sydney. Reverend the Hon. Dr Gordon Moyes, in his maiden speech, said that he had done further research into what were called the iron churches. He found that three or four—perhaps more—iron churches were manufactured in England. Additional advice from the Clerk states:

> The building, made in Scotland by the engineering firm, Robertson & Lister … Ironically this company of smiths, engineers, millwrights, iron roof constructors and iron house builders occupied offices at 340 Parliamentary Road, Glasgow.

The buildings were designed by local architects Bell and Miller. Reverend the Hon. Dr Gordon Moyes found out that these iron churches were shipped to Australia. One was purchased by the Methodist Home Mission Department, because iron churches would not be affected by termites and other problems. The church was sent to Palmerston, which is the former name of the city we call Darwin. That church still stands although it is no longer used. Another iron church was sent to Ararat in Victoria. It was also purchased by the Methodists for use on the goldfields. On the side of these huge churches were four big wheels 5½ feet and made out of slivers of huge tree trunk on which they were dragged by teams of oxen around the goldfields. The last goldfield it was taken to was Dunkeld in 1863. It was then dragged to Ararat and left temporarily in a vacant paddock behind the Methodist church. It was still there when Reverend the Hon. Dr Gordon Moyes visited.

Another iron church was purchased by the Anglicans, and was sold at a profit of £1,200 to the people of New South Wales to become the Legislative Council Chamber. Some questions have been raised about the history of this place so I thought it would be good to put that on the record. However, I note—and this may have caused some confusion—that another iron church was established on the land on which the Mitchell Library stands today. It was quite a large iron church, which was used by the original congregation of St Stephen's Presbyterian church. The church building was then moved from one side of Macquarie Street to the other; that became the public library, and the Parliament House buildings were developed on the site. Looking at the history I was able to identify that the library reading room was opened by the Governor, Sir Harry Rawson, on 22 May 1906 on the occasion of the celebration of the jubilee of responsible government. At that function the President of the Legislative Council, the Hon. Sir Francis Suttor, presented to the library the first Address-in-

Reply to the Governor's speech adopted in New South Wales. So tonight we are repeating what occurred on 22 May 1906. The Address-in-Reply to the Governor's speech in 1843 was presented to the library in 1906; the first Address-in-Reply to the Governor's speech was in 1843.

Interestingly, on that occasion it was moved that a humble address be presented. However, the members objected to the word "humble" and it was struck out of the motion. I note that we do not use the word "humble" today. History probably shows that the word "humble" does not appear in any Address-in-Reply motion. Another person who had a tremendous impact on the history of the New South Wales parliamentary process was Sir Henry Parkes. As honourable members know, he served as the Premier for at least five or six terms, but in those days he was called the Prime Minister of New South Wales. There was always controversy about replacing the buildings with a huge Parliament House as big as, if not bigger than, the House of Commons in England. The designs on display in the library show buildings that are so grandiose they would have looked out of place in the city of Sydney. Sir Henry Parkes was not very enthusiastic; indeed, in one speech during debate on constructing these great buildings he said:

> It always appeared to me that it is far better to have good Parliamentarians than grand buildings to put them in.

I think his attitude discouraged spending the limited resources available in those days to build huge grandiose buildings for Parliament House. So as we celebrate the 150th anniversary of responsible government, with the proviso that the Legislative Council was here before 1856—it was a nominated House, not elected—we should thank God for all the blessings of our heavenly Father over the years and for our Christian heritage. That heritage is still predominant in our nation, with about 70 per cent of the people claiming a Christian heritage. We talk about the multifaith and multicultural aspects of our society. All the other religions of Australia—the Muslims, the Buddhists, the Hindus and the Jewish people, whom we respect—make up only 5 per cent of the Australian population. I do not think we should be thrown off balance because we have minority religions in this country that we respect.

In particular I thank God that we acknowledge God's presence every morning in this House with our opening prayer, which is led by the President or by a person nominated by the President. It includes those important words based on Romans 13 and which are part of an original prayer from the first British Parliament in the 1600s. That Parliament opened with a very long prayer by a Christian Minister. It has been shortened to three lines, but the heart of the prayer is:

> Almighty God, we humbly beseech thee to vouchsafe thy blessing upon this Parliament.
> Direct and prosper our deliberations for the advancement of thy glory and the true welfare of the people of our State and Australia.

That prayer reflects the biblical teaching in Romans 13, that governments are meant to be the servants of God. Sometimes they rebel against God's will, but the principle established in the *Bible* is that governments are meant to be the servants of God, always seeking guidance and direction in the decisions they make. As honourable members know, after that prayer we say together the Lord's Prayer. This procedure was raised in this House in two separate debates. On the first occasion the House voted 30 to 5 to retain the prayers and on the second occasion it voted 30 to 7 to retain them. I thank God for that expression by the majority of members of the House, without reflecting on those who voted against the motion for their own reasons. Earlier I referred to Sir Henry Parkes, who is known as the father of Federation. He lived from 1815 to 1896. He made an important statement that I find inspiring and helpful when we discuss our Parliament and the Constitution. He said—honourable members must remember that he said this in his day:

> As we are a British people—pre-eminently a Christian people as our laws, our whole system of jurisprudence, our Constitution are based upon and interwoven with our Christian belief, and as we are immensely in the majority, we have a fair claim to be spoken of at all times with respect and deference.

Sir Henry promoted—I support what he promoted—the free secular public education system. Some people have made the mistake of thinking he was insisting on an atheistic or humanistic education system, but he used the word "secular" to mean non-denominational, that it would not be Catholic, Baptist or Anglican but Christian in the same way as our Commonwealth Constitution says there can be no establishment of a religion. It was not speaking of Christianity or Islam or Buddhism; it was speaking of establishing the Church of England as the established Church in Australia, as it applies in the United Kingdom.

This confuses our generation. When we think of the word "religion" we think of Buddhist, Muslim, and so on. When these words were written they referred to different Christian denominations. Catholics, Anglicans and Baptists were looked upon as different religions. We thank God that that period of confusion has passed and

we now understand they are all part of the overall Christian community—not separate religions—that works and prays together in harmony, as was demonstrated by the ecumenical service that was held to celebrate the anniversary of 150 years of responsible government in New South Wales.

**The Hon. EDDIE OBEID** [9.03 p.m.]: I speak in response to the Lieutenant-Governor's Speech on the sesquicentenary of responsible government in New South Wales. Let me open by saying how honoured I am to be part of the New South Wales Legislative Council during its 150th anniversary. As a young man I would scarcely have imagined that I would grow up to be part of such an historic and esteemed institution. I was reflecting on some comments the Lieutenant-Governor made in his speech about respect and responsibility. He said:

> In celebrating parliamentary democracy we are celebrating the political process itself. That entails a respect for the great institutions of our society, a respect for the civilities of political discourse, for the practice of politics, indeed—if I may so—for politicians themselves.

This comment struck a chord with me. What has been most prominent in my mind is the utter disrespect that has been shown to my family and me over the past few weeks—a blatant lack of respect by journalists who knowingly use biased and compromised information to smear my family's name and a shameful lack of respect by Opposition members who cowardly use what they know to be flawed and baseless information to attack my credibility and that of the Government. Much has been made about my alleged involvement in the smartpole contract affair. There have been no less than nine articles in the print media and the Opposition has fired numerous accusations in this Parliament about my conduct and that of my sons. This affair is some seven years old and neither I nor any of my family is a legal party to the recent proceedings. We are not on trial here, yet, seven years on, my reputation and that of my sons and their business continue to be dragged through the mud by a scurrilous journalist with a personal vendetta and a company that failed to deliver on a project that was critical to the city of Sydney, the Olympic city.

Tonight I set the record straight, once and for all. Tonight I respond. I confine myself to the facts—facts that have been recklessly and maliciously ignored; facts that have inconveniently got in the way of a good story; facts that vindicate my sons' business dealings and my own regard for probity and integrity. It is a fact that on the 25 August 1997 Goldspar, a company incorporated in New South Wales, was awarded a contract to build smartpoles by the Sydney City council. This decision was endorsed unanimously at a meeting of the council on a motion moved by Liberal Councillor Katherine Greiner. It is a fact that in May 1998 my sons were introduced to Goldspar by the smartpoles designer, KWA, on an invitation to buy into their business. At this initial meeting on the 13 May no interest was expressed by either party for them to buy out the contract, contrary to media reports. That came later.

At this stage, my sons were invited only to buy into the business. They met with the owner of Goldspar, Mr Douglas Rawson-Harris, who presented them with his full company accounts. It is a fact that in a statutory declaration dated 6 September 1999 Mr Barnes, one of Rawson-Harris's staff members, stated that my sons offered to use their "political connections" presumably with the then Lord Mayor Frank Sartor and his sparring partner, Ms Greiner, to secure Olympics contracts. There were some difficulties with this creative recollection of Mr Barnes, so let me be clear. My sons, at this meeting, were in negotiations with a view to purchasing the company, not the contract. The smartpole contract at issue had already been awarded and there were no discussions of Olympic contracts at any stage. Mr Barnes, the author of the statutory declaration, was not even present during these discussions. His statement was concocted some 16 months after the meeting and it contradicts Mr Rawson-Harris's earlier account of events. It was conveniently cobbled together by Barnes and Harris during the tender process, at a time when Mr Rawson-Harris had a financial interest in having such an account put out.

It was worse than fraud or even perjury! It was sheer incompetence! It is a fact that after the meeting on 13 May and following serious consideration, my sons decided to make an offer to buy the contract only, rather than buy into the company. Mr Rawson-Harris had sought $2 million for the contract alone. In the event, they decided not to be business partners. On 12 June 1998 a retraction of the offer was sent to Rawson-Harris. Several weeks later the design firm KWA and my sons formed a company known as Streetscape Projects. Not a bad idea, as it turned out, for Basil Fawlty would have proven to be a more steady and reliable business partner than Mr Rawson-Harris. Yesterday, in the lower House, the Hon. Frank Sartor provided an excellent insight into Mr Rawson-Harris's personality. As reported in *Hansard* of 23 May 2006, he said:

> Doug Rawson-Harris … is capable of turning the most reasonable person into a very frustrated human being …

> Sue Puckeridge, the head of my legal department … would tear her hair out after every meeting with Doug Rawson-Harris because he wanted to double the fee we were paying him.

It is a fact that almost from the moment Goldspar, the company, was awarded the initial contract it faced financial difficulties. For that reason, Rawson-Harris sought via KWA an introduction to my sons. In late 1998 Goldspar attempted to recoup the tender expenses of its designer, KWA, from the City of Sydney Council. It would have been unprecedented for the council to compensate the recipient of a council tender for costs associated with a successful bid. Accordingly, the request was rejected. However, the council became clearly concerned as to the ability of Goldspar to deliver on the contract. From March 1999, in letters on file and on record, the council repeatedly expressed its concerns to Goldspar. That was entirely understandable.

Goldspar had been awarded a contract for 900 poles. However, it had delivered only several hundred. As it turned out, there were complications with installing the poles. The costs blew out. A manufacturing variation of $1.6 million was identified by Goldspar and the creditors were circling. Goldspar had difficulty paying its designer, KWA, the very company that delivered the successful tender to it in the first place. KWA then signalled its intention to pursue legal remedies against the company. As for the city of Sydney, the Olympics were just around the corner, yet the council had a litigious supplier who was unable to perform and refused to deliver the smartpoles needed to complete the city centre's refurbishment.

On 11 May 1999 the council decided to readvertise the tender. It was at this time that KWA, the smartpole designer, saw an opportunity to recoup its investment in the project and decided to put in a bid in its own right through the Streetscape Projects joint venture. Rawson-Harris realised he could not compete with the capable and well-financed Streetscape Projects. He instead set about plotting his shameful and corrupt attacks. It was a public bid in a very public way. On 8 November 1999 a split contract was awarded by the council to a Melbourne company known as La Mer and to Streetscape Projects. The council did so to ensure it would not fall into the same trap of having a sole supplier.

Countless wild accusations have been made both in the media and in Parliament about my role in pressuring the Council of the City of Sydney into giving the contract to my sons' company. The fact is that this is a slanderous lie. In 1999 I had not even met then Lord Mayor Frank Sartor and I certainly did not speak to him about the smartpole contract. The motion that accepted the La Mer-Streetscape Projects tender was moved by Councillor Lucy Turnbull and Councillor Dixie Coulten. Much may have been said about the Turnbulls but few have ever described them as being "in my pocket" or "pro-Labor" by any stretch. Any claim that I attempted to influence Sydney city council to ensure that Streetscape Projects was granted the smartpole contract is simply an outright lie. The truth was best clarified yesterday in the lower House by the Minister for Planning and former Lord Mayor of Sydney, the Hon. Frank Sartor. As again reported in *Hansard* of 23 May, he said:

> As I recall, the actions of council at the time were perfectly within its rights and as it saw fit. We were trying to get the city ready for the Olympics and Goldspar was not performing … I seem to recall that the final decision of the elected council to terminate the contract might have been unanimous.

He went on:

> Opposition members will not tell us about the three or four cases that Goldspar pursued and lost before Justice Gyles. Finally it changed tack and used a technical argument that we were not within our rights to terminate the contract and Justice Gyles found in favour of the case. I am advised that the city is appealing … I do not have a skerrick of regret about what was done at the time.

He also said:

> We went from Goldspar, which failed to perform, to a joint contract that was given to La Mer and Streetscape. It turned out that Streetscape performed better. A third tranche was given to Streetscape and we delivered the city terrifically for the Olympics.

That is the truth of the matter. That is the honest and correct account of the events surrounding the tender of the smartpole contract. It is a fact that the Sydney city council tendering guidelines prevent any tenderers from engaging in discussions with the media or using other means to influence council officers. Section 2 (10) of the council's conditions of tender states:

> Information provided in this Request for Tender … is confidential to council and shall not be used by the Tenderer for any other purpose, or distributed to, or shared with any other person or organisation.

Section 2 (13) states:

> No tenderer or representative of the tenderer shall at any time prior to council making a final decision to accept a tender discuss or attempt to discuss with Council members, or employees any matter in relation to a Tender submitted in response to the Request for Tender.

It is crystal clear that to do so would undermine the council's independent process. So too would colluding or assisting another party to influence the council. That is exactly what Goldspar set out to do. It decided to flout those guidelines in an effort to tilt the playing field to its advantage. Goldspar then engaged a self-styled media operative, Mr Gary Knight. And Mr Knight did his job well. By the time he finished he had distributed two dirt sheets to politicians, debriefed several journalists, met with many politicians, organised for several questions to be put in the House and thoroughly corrupted the council's independent tendering process. I have no need to table those documents. Every member of the Chamber received them.

It is a fact that Mr Knight is a known personal friend of Ms Kate McClymont, a reporter with the *Sydney Morning Herald*. Mr Knight had previously enjoyed some notoriety for verbal stoushes with Senator Bill Heffernan. He was a business partner of the high-profile immigration scammer Mr Jim Foo. Mr Foo is still being chased by creditors and is in custody for his role in an attempt to bribe the immigration Minister, Mr Philip Ruddock, and for his role in the "Pioneer Spirit" development scam in Dubbo to rip off countless investors. In Mr Knight's words, as reported in the *Sydney Morning Herald* on 23 July 2003:

> Hollywood couldn't entertain like Jim Foo.

Mr Knight was also quick to defend Mr Foo following inquiries by the Australian Federal Police. In Mr Knight's words, reported in the *Sydney Morning Herald* on 23 July 2003, Mr Foo received "no favours from the Minister" over his proposals to bring migrant workers to Dubbo. Mr Knight has yet to learn the lesson that those who live in glass houses should never throw stones. It is a fact that Mr Knight then put together a dossier on my family. It was dated 27 August 1999—right in the middle of the tender process.

I will be providing these documents to the Independent Commission Against Corruption [ICAC]. They are evidence of seething corruption and clandestine stupidity. As any self-respecting media operative will tell honourable members, it is one thing to make these calls and put about this muck, but it is quite another thing to put it in writing, sign it and then believe one can escape scrutiny. The document contained the name of the Hon. John Della Bosca, whom they attempted to approach. It also contained the link to Sharon Meissner, who is incorrectly listed as a relative of Joe Meissner, an infamous crime figure.

The document incorrectly asserted that, since rejection of the offer by my sons to buy in to Goldspar, "Sydney City Council has developed an obdurate approach to Goldspar". The reality for Goldspar is that the "obdurate approach" started much earlier when it failed to deliver on its contract for the smartpoles. It also targeted council officer Mr Wayne Burns. It attempted to defame the Sydney city council superintendent for "approaching Goldspar's sub-contractors", and it attempted to defame the council resolution moved by independent councillors Turnbull and Coulten, saying they had acted in "an illegal fashion". It was distributed widely amongst the media and Opposition members for maximum impact.

We know that Mr Knight was the author of this dossier because he approached several of my colleagues and former associates with the information, who then relayed it to me. We also know that he was undertaking this smear campaign on behalf of Goldspar. Indeed, he says so himself in the dossier. He stated:

> I have advised my clients of the following course of action. If settlement is not achieved immediately, there is very little prospect of that being done post-election, without a lengthy and expensive legal battle, which my client cannot afford. Therefore, there should not be any delay in bringing the matter to the media's attention and allowing and ensuring it receives absolute saturation in the final week of the campaign.

He went on:

> This would ensure the matter took the Sydney City Council election fight right to the steps of Macquarie Street and coincided beautifully with the resumption of the New South Wales Parliament.

He finally stated:

> I will ensure opposition members, backbenchers and independents are furnished with little media kits to ensure that the Hon Mr Edward (He Who Must Be) Obeid is grilled ad-nauseam in the Upper House.

The document was a shameful ruse designed to corrupt a tender process, and it is something that the ICAC will find interesting. This was no ordinary smear campaign. It was a carefully planned and deliberately timed attack on my reputation and that of my sons for the purposes of manipulating the smartpole tendering process to the benefit of Goldspar. Not only was Goldspar's use of such disgraceful tactics shameful and corrupt; it brazenly violated Sydney city council's tendering guidelines.

Mr Knight then contacted his good friend and Fairfax journalist, Ms Kate McClymont. I am informed that these two old friends met weekly to discuss gossip. I have also been informed that Ms McClymont has kept various records of these conversations, that she made various inquiries and kept accurate notes on those inquiries. I have been informed of the many filthy allegations McClymont has made about my family and me. Unfortunately for her, I have a copy of the Fairfax Code of Ethics. I draw Ms McClymont's attention to section 2.1 of that code, which reads:

> We endeavour to perform our duties and conduct business in a manner that is honest and of the highest integrity. We strive to maintain our business relationships in a manner which are consistent with principles of respect for others and fairness.

I draw Ms McClymont's attention to section 2.4 of the code, which reads:

> We will disclose any real or potential conflicts of interest when dealing with family, friends, or other related parties or entities on behalf of the company.

I draw Ms McClymont's attention to section 3.9 of the code, which reads:

> We are committed to producing complete, balanced, timely, accurate and truthful company data, records and reports.

I draw Ms McClymont's attention to Mr Knight's sullied reputation, to his shady business dealings and to his involvement in the Pioneer scam. I draw her attention to his business relationship with Mr Rawson-Harris and the fact that he was bidding in an open tender at the time. I draw her attention to her failure to disclose her conflict of interest in this matter—her friendship with Mr Knight and his business involvement in the matter. That is hardly fair and accurate reporting: Hardly fair, Fairfax, and hardly the facts.

I imagine that Ms McClymont's notes and recollections from her meetings with Mr Knight would read like *The Da Vinci Code*. Many of the notes were direct quotes from the dossier that her good friend Mr Knight compiled. It repeats Mr Barnes's untrue allegations regarding my sons' meeting with Mr Rawson-Harris—discussions Mr Barnes did not attend. It reads:

> We could guarantee we receive the flagpole contract for the Olympics.

It was an assertion she was later to publish; it was an assertion Fairfax was later to withdraw. Her observations were writ in stone. In her words, "Council refused to pay for the design." She accused council officers of doing "handshake deals". She colluded with Gary Knight in his despicable activities, including meetings with Opposition members "armed with stat decs". Through her so-called investigative journalism she then attempted to link my family with false affidavits; fixing hung juries; underworld figure Louie Bayeh; someone being "pinched again for drugs"; the Leigh Leigh Report and the "PIC"; Sharon Meissner and her links to Jodie Meares; "actors from film and TV; "Richo", of whom she famously said, "I know they were friends once"; involvement in a police radio contract rort; a "$100 million rort in WorkCover"; and someone named "Hani" who owns Northside Studio in Fyshwick, and Moonlight at Auburn with someone named "Steven" of Aussie Boys.

These were the words and thoughts, the accusations most foul and unfounded that she attempted to put around this city about me and my family, that I am sure she has stupidly and repeatedly committed to paper. I am surprised that I have not been implicated in the assassination of John F. Kennedy! This journalist had form, of course, having connected me in the past to allegations put about by Al 'The Grub' Constantinidis, a man found by the ICAC to be a most "unreliable witness" and who included McClymont in close family events. In the ICAC report on the Woodward Park Project the commissioner stated:

> While I do not accept he was intending to give false or misleading evidence, the inconsistencies are of great concern in relying on his recollection of events as accurate.

The ICAC commissioner called this man unreliable. To McClymont and her special brand of journalistic ethics, he is a "goer". McClymont obviously gets her thrills by being constantly in the company of the bad guys, the heavies and the sleazy insiders who claim to know things. McClymont has been mixing with scum for so long that she no longer knows who is good and who is bad, what is real and what is made up. She has become the journalistic equivalent of a gun moll with glittering associations with the not so well to do. Despite this being well known, management of the *Sydney Morning Herald* continue to grant her prime, unscrutinised space.

On 8 September 1999 an article written by McClymont was published in the *Sydney Morning Herald* entitled "Minister's sons accused of touting Olympics contract". From her special brand of investigative

journalism, her lengthy meetings with Gary Knight, leaving aside the more crazy material for subsequent editions, she re-asserted the material regarding the Olympics contract, falsely claiming contracts would be procured "through political connections to sweeten a business deal".

This was clearly the result of Knight's advocacy and contained in the material he had announced he would "take to the media". It is a fact that on 7 June 2002 Fairfax settled out of court and consent orders were agreed to between my sons Moses and Paul Obeid, John Fairfax Publications, Douglas Rawson-Harris and Tony Barnes. The settlement reads:

> On September 8 1999, the Sydney Morning Herald put forward an article suggesting (Mr Paul Obeid and Mr Moses Obeid) had engaged in corruptly procuring a contract. "The Herald accepts their assurances that any such suggestion was false and apologises to them for any hurt or embarrassment caused by the article."

It is a fact. Not to be deterred, Ms McClymont has motivated efforts to restore her otherwise sullied reputation, a reputation continually battered by successive court actions to clear my name. As recently as August 2005, the courts again found against this scurrilous journalist. Rather than 'fess up to a mistake and admit that she negligently flouted her own company's code of ethics and the council's tendering processes and put about muck in order to favour an individual bid for a public tender—foolishly being led along by her close friend, Gary Knight, and his illegal and shady business dealings—she decided to compound her naivety and blind preference by maliciously continuing her journalistic crusade against my family. As recently as 6 May 2006 Ms McClymont wrote in the *Sydney Morning Herald*, "Flagpoles could cost the city millions", despite the findings of two court actions. She went on:

> Despite coming last in a tender assessment by council officers in 1999, a company controlled by the sons of MP Eddie Obeid, Streetscape Projects, was awarded a contract to supply Smartpoles to the City of Sydney.

More lies and smear. More inappropriate conduct from this associate of charlatans and criminals. More flagrant breaches of the Fairfax code of ethics. Yet Fairfax gives her stories profound space in its flagship as though she were a journalist of record.

I have outlined the sorry facts in this sorry saga. I would now like to pose some questions. How many more times must my sons and I take action in the courts to redress the damage this journalist has inflicted? How many more times can this journalist take it upon herself to circumvent the truth or fair comment on these matters in defence of her misplaced loyalties? Why will McClymont not declare her conflict of interest—her friendship, with Mr Knight? Why will she not explain to her readers why she flagrantly failed to investigate Knight's business dealings before running his claims as her accusations hook, line and sinker?

Why will Mr Knight not declare how much he was paid by Mr Rawson-Harris to smear my good name? Will anyone investigate their collusion in trying to undermine an open tendering process, trying to advantage one tenderer at the expense of my good name? To quote Arthur Miller, the accuser does not look so holy now. Perhaps it is time we members of this Chamber revisited our decision— having been a repeated victim of this sort of orchestrated, professional muckraking—to cap damages in defamation actions to $250,000 for non-economic loss. And perhaps it is time we considered drafting a law to make journalists personally liable for negligent, hurtful reporting found to have no basis in truth or in the public interest. That is something all members of this Chamber and the community should begin debating. In the meantime, I will be referring this whole shady group—Ms McClymont, Mr Knight, Mr Rawson-Harris and Mr Barnes—to the Independent Commission Against Corruption, to the Australian Press Council and to the courts.

Finally, I acknowledge that public figures are open to a degree of scrutiny and fair criticism. That is an acceptable aspect of our liberal democracy. But that does not give journalists licence to mercilessly attack, defame and smear the children of public figures. My children have not chosen a public life and journalists such as Ms McClymont have absolutely no right to put the blowtorch on their business and personal reputations. They deserve the same right as any other citizen to conduct their affairs free of the kinds of slurs that are often directed to those elected positions. There exists a line between decent, ethical reporting and corrupt, self-interested, gutter journalism. It is line that has been crossed far too many times.

**The Hon. MELINDA PAVEY** [9.34 p.m.]: Like the Hon. Eddie Obeid, I was pleased to be part of the historic occasion on Monday celebrating 150 years of the oldest legislature in Australia. Coincidentally, I too was moved by the words by the Lieutenant-Governor about politics and our democracy, and the liberty that we enjoy in our State and country. At this point we should all reflect on the words of the Hon. Murray Gleeson, which were repeated by the Lieutenant-Governor:

> Politics is what makes a representative democracy work. To despise politics is to despise democracy.

I would argue very strongly that the Hon. Eddie Obeid has done much in this State of New South Wales to make people despise politics and politicians. I am not referring to matters he referred to in the speech he has just delivered; I am referring to the dirty, grubby little deals he does with the so-called Independent members of this Parliament.

**The Hon. Amanda Fazio:** Point of order: The Hon. Melinda Pavey has breached Standing Order 91 (3) by making imputations against another member of this House. She is well aware that she is in breach of that standing order. She has risen to speak in the debate on the Address-in-Reply and in her first utterances she is in breach of the standing orders. I request that you remind the Hon. Melinda Pavey of her requirements to abide by standing orders. If necessary, I will repeat this point of order if the Hon. Melinda Pavey does not confine her remarks to matters that can be raised within the standing orders of this House.

**The Hon. MELINDA PAVEY:** To the point of order: I was referring to comments made by the Hon. Eddie Obeid in his speech about democracy in this State—that precious thing that we all enjoy. I felt it appropriate to put on the record in the budget reply the Hon. Eddie Obeid's involvement in the establishment of the "Independent Party" in New South Wales.

**The Hon. Amanda Fazio:** Further to the point of order: I make two observations. First, we are debating a motion—in which the Hon. Melinda Pavey claims to be participating—for the adoption of the Address-in-Reply to the Speech of the Lieutenant-Governor, not the reply to the budget. Second, the comments of the Hon. Melinda Pavey are clearly outside the standing orders; they are in breach of Standing Order 91 (3). I would ask you to remind her of that point. I would ask further that you remind the Hon. Melinda Pavey that when she purports to be speaking to a point of order she should do only that and not further breach the standing orders by making debating points.

**The Hon. MELINDA PAVEY:** Further to the point of order: My comments are in relation to democracy and liberty in New South Wales, as referred to by the Lieutenant-Governor in his Speech.

**The DEPUTY-PRESIDENT (The Hon. Greg Donnelly):** Order! Standing Order 91 (3) is clear and unambiguous. Does the Hon. Melinda Pavey require me to refer to it in some detail?

**The Hon. MELINDA PAVEY:** Yes.

**The DEPUTY-PRESIDENT (The Hon. Greg Donnelly):** I will read it for the benefit of the honourable member. It states:

> A member may not use offensive words against either House of the Legislature, or any member of either House, and all imputations of improper motives and all personal reflections on either House, members or officers will be considered disorderly.

I suggest that the member pay heed to that standing order. She should confine her remarks to the matters raised in the Lieutenant-Governor's Speech.

**The Hon. MELINDA PAVEY:** In relation to liberty and democracy in New South Wales, politics is what makes a representative democracy work. To despise politics is to despise democracy. I believe that in New South Wales there is a very strong undercurrent being perpetrated by members in this place to make people despise politicians and politics by encouraging people of an Independent or so-called Independent persuasion—and I use the example of Richard Torbay, the member for Northern Tablelands, who previously was a member of the Labor Party and is a strong associate of the Hon. Eddie Obeid. The Hon. Eddie Obeid has been instrumental in acting for and giving advice to Richard Torbay, and through Richard Torbay to Dawn Fardell and Peter Draper, all members representing constituencies in regional New South Wales. I contend further that there was evidence during the recent Pittwater by-election that the Hon. Eddie Obeid had considerable involvement with Alex McTaggart—

**The Hon. Amanda Fazio:** Point of order: Mr Deputy-President, the Hon. Melinda Pavey is deliberately flouting your earlier ruling. She is in breach of Standing Order No. 91 (3) and, by doing so, is being disorderly. I ask that you require her to abide by the standing orders. Either throw her out of the House or refuse to give her the call because it is obvious by her demeanour that she has no intention of abiding by the standing orders of the House. She is doing nothing more than muckraking.

**The Hon. MELINDA PAVEY:** To the point of order: The Lieutenant-Governor's Speech specifically addressed democracy and the respect that the people of New South Wales must have for the democratic process. I am outlining the situation and the involvement of the Hon. Eddie Obeid with Independent members of Parliament, and it is relevant—

**The Hon. Eric Roozendaal:** To the point of order: Deputy-President, you have already made a ruling with respect to imputations against members of this House and the requirement to adhere to the standing orders. I am greatly concerned that the Hon. Melinda Pavey is flouting your ruling. I would hate to see this debate degenerate into a discussion about the Leader of the Opposition sending a fax to undermine the leadership of the Liberal Party, but it will in a minute if this keeps up.

**The DEPUTY-PRESIDENT (The Hon. Greg Donnelly):** Order! I remind the Hon. Melinda Pavey for the second time that she should abide by Standing Order 91 (3). I ask her to confine her remarks to matters referred to in the Lieutenant-Governor's Speech.

**The Hon. MELINDA PAVEY:** The Lieutenant-Governor went on to state that the Queen remarked on the tremendous weight and tradition in this legislature—this mother of Australian Parliaments, this home of Australian democracy. Like the Hon. Eddie Obeid I, too, sometimes wonder how a person of my humble beginnings and upbringing could end up in a place like this. But I take my responsibilities incredibly seriously, not only my responsibilities to my party but also my responsibilities to the people of regional New South Wales. It is very difficult for me to stand by and watch other members of this Parliament treat people the way they are being treated.

If we fail to honour our history and traditions, we put ourselves at risk of not learning from the mistakes of our past and limit our potential in the future. The most interesting part of the Government's agenda that was excluded in the speech written by the Government for the Lieutenant-Governor is the sale of the Snowy Hydro scheme. We have seen the most striking example of democracy in action over the past few months since the New South Wales Government announced its intention to sell its majority share in the Snowy Hydro scheme.

**The Hon. Jan Burnswoods:** Point of order: I base my point of order on two grounds. First, a committee is inquiring into the matter that the Hon. Melinda Pavey is now addressing. Indeed, the Hon. Melinda Pavey is the deputy chair of that committee. I understand the committee met tonight, Therefore, the member should not debate the matter. Second, this matter is also listed for debate in the Chamber tomorrow and, therefore, should be ruled outside the parameters of this debate.

**The Hon. Don Harwin:** To the point of order: The second ground of the point of order was nonsense, given the latitude extended to the previous speaker, who was able to deliver his contribution uninterrupted. As to the first point, clearly the committee has had one meeting to consider administrative matters but it has held no hearings and, therefore, there are no unreported proceedings that the Hon. Melinda Pavey could possibly comment on that would fall foul of the standing orders.

**The DEPUTY-PRESIDENT (The Hon. Greg Donnelly):** Order! The Hon. Melinda Pavey is entitled to make general comment when referring to the matter she has raised. However, she should remain cognisant of the fact that she is the deputy chair of the committee to which reference has been made and she should not comment on any details of the proceedings of that committee.

**The Hon. MELINDA PAVEY:** I was not going to refer to the details of the proceedings of the committee; I merely wish to give voice to the people of New South Wales. The Snowy Hydro scheme, as we know, has shaped post-war Australia. More than 100,000 people constructed the Snowy and more than 120 people died during its construction, which took some 25 years, from 1949 to 1974, at a cost of approximately $820 million. The scheme is not only an icon for New South Wales but for our entire nation. It was a major infrastructure development, bringing people from all parts of the world together—people who wanted to begin a new life in a new country, away from war-torn Europe in particular.

It was a major engineering feat and is often described as one of the wonders of the modern engineering world. The scheme helped forge a new identity for Australia, using the skills and expertise from these people who had turned to our nation to forge their own new beginning. It opened up an opportunity for tens of thousands of farmers along the Murray Basin to have a safe, secure and reliable source of water. My family was one of those families. It enabled an investment in farms that generated wealth for their communities and the

nation as a whole. It is a scheme that has provided clean, green electricity to our energy consumption. Interestingly, the green credits created from the electricity generation were unable to be considered as part of our green carbon credits for the Kyoto Protocol. The Snowy Hydro scheme is Australia's most important engineering project. Snowy Hydro involves 16 major dams and seven—

[*Interruption*]

**The Hon. Charlie Lynn:** Point of order: I am having difficulty hearing the contribution of the Hon. Melinda Pavey. I point out that the Hon. Eddie Obeid was heard in silence and I ask members opposite to extend the same courtesy to the Hon. Melinda Pavey.

**The DEPUTY-PRESIDENT (The Hon. Greg Donnelly):** Order! The Hon. Melinda Pavey has the call and should be allowed to continue her contribution uninterrupted.

**The Hon. MELINDA PAVEY:** Snowy Hydro involves 16 major dams, seven power stations, a pumping station, and 225 kilometres of tunnels, pipelines and aqueducts. It is a national treasure, yet, despite all of this, the New South Wales Government has decided it will rush through a bargain basement fire sale of this iconic asset. Across New South Wales there is a growing groundswell of people opposed to the privatisation of Snowy Hydro Limited. The people of Australia are disillusioned and disgusted by the New South Wales Government's announcement. The State Government did not consult the people it should be honoured to represent about whether the Snowy should be privatised. The Snowy Hydro must not be used by the State Labor Government to plug its budget black hole. People power will stop this sale.

At least 3,500 hits were recorded on David Madew's web site, *www.savesnowvhydro.com*, as it was flooded with people wanting to sign a petition to halt the sale—close to 500 petitions have been received by my office—and members' emails across this Parliament have been running hot every hour with letters from concerned residents anxious about the sale of the Snowy for a quick buck. The Premier and his Country Labor mates have tried to block all debate regarding the issue in both Houses of this democratic parliament. The State Government did not want the parliamentary inquiry into the proposed sale of Snowy Hydro Limited to be established. It wants to keep the public in the dark. It is afraid the public will see this sale for what it truly is: a desperate Government trying to cover up its financial mess. The public is well aware of the Government's track record of secrecy and dodgy deals and it is wise to its games. The people will not sit by and see one of the greatest achievements in Australia's history sold off to overseas investors. The New South Wales Government has a fight on its hands.

I acknowledge the contribution to this debate by the Hon. Patricia Forsythe. She made some significant comments relating to the need for government, particularly this State Government, to be more cognisant that families need support with young children so they can avoid the difficulties later in life that many in this State are facing. I acknowledge the work of many parliamentary committees in relation to this issue—including one established by the Hon. Jan Burnswoods—dealing with children and the care of children, particularly at the early stages from 1 to 5 years. There is much this Government could be doing on that front. I call on the Government to take particular note of the relevant comments in the Hon. Patricia Forsythe's contribution.

The Port Macquarie electorate is facing a number of challenges. I am yet to receive a response from the Minister for Roads to an issue raised yesterday in relation to an unusual grab for cash by the Government relating to developer contributions and shifting the cost of State road improvements onto potential landholders. It is an issue of great concern. So far as the Government's agenda for the coming year is concerned, the Opposition will be watching a number of issues carefully and closely. For example, we need significant funding to complete the redevelopment of Queanbeyan hospital—a redevelopment, I might point out, in respect of which construction has not yet commenced, despite assurances given to me by the Minister for Health. He came racing into this House and said construction had already started. I do not know what he means by "started". When I think of "started", I think of bulldozers and workmen out there, but there is none of that as yet. The redevelopment of Queanbeyan hospital must be addressed by the Government.

**Debate adjourned on motion by the Hon. Peter Primrose.**

## ADJOURNMENT

**The Hon. TONY KELLY** (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [9.53 p.m.]: I move:

That this House do now adjourn.

## CHINESE HERITAGE PROJECTS FUNDING

**The Hon. HENRY TSANG** (Parliamentary Secretary) [9.53 p.m.]: The Chinese community has made a significant contribution to the development of Australia, particularly to New South Wales, since its first mass arrival in the 1850s. I am pleased therefore to see three Chinese heritage projects granted funding in the latest round of the Heritage Incentive Program announced recently by the Minister for Planning, the Hon. Frank Sartor. The grants for the three Chinese heritage projects include $45,500 to the General Cemetery Necropolis Trust for masonry conservation work on the Quong Sin Tong monument at Rookwood Cemetery, $25,000 to the Shoalhaven Historical Society to identify and record Chinese heritage-related sites and items on the South Coast, and $25,000 to Mr Barry McGowan for a similar project in the Riverina and Southern New South Wales.

Quong Sin Tong was one of the earliest Chinese societies in New South Wales. It was a local Chinese district society whose task was to help with the exhumation of Chinese graves from Rookwood cemetery for reburial in China. The process was, at the time, in accordance with the beliefs and practices of the community and was fairly common until the 1950s. The Quong Sin Tong monument dates from 1877 and is significant for historical and aesthetic reasons. It was erected in the first decade of Rookwood cemetery's operation and is one of its earliest monuments. It is located in a central and dominant position in the Chinese section of the cemetery. It is a domed pavilion surrounded by a moat and designed in a classical European style. I am informed that a Chinese monument in this form and style is unique to New South Wales, and possibly worldwide. Its design quite likely symbolises Quong Sin Tong's association with the repatriation of remains to China. The grant will help preserve this unique monument, with its great social, spiritual and historical significance.

The other two projects granted funding are associated with the Chinese Australian Cultural Heritage project, the results of which will be included in the National Database of Chinese Australian Cultural Heritage. The New South Wales Heritage Office has previously funded two similar studies covering the City of Sydney and the Central West. The results of these studies were used to identify places of heritage value for inclusion on the State Heritage Register. They include the Yiu Ming Temple in Alexandria, a project on which I worked as the honorary architect to record and restore the temple after a fire had destroyed the interior and roof; the market gardens at La Perouse, managed by the Chinese community for over 90 years; the Wing Hing Long store in Tingha, which I had the great pleasure to open on behalf of the Premier; and a water race at Windeyer in the Central West, dating from the gold rush.

These studies and the accurate recording and preservation of our heritage are important because we are a nation of migrants. The many ethnic communities making up our nation have contributed to its diversity and its identity. In fact, 27 per cent of Australians have at least one parent born overseas, and 23 per cent were themselves born overseas. If subsequent generations were taken into consideration, the figure would be considerably higher. The Government recognises the significance of this history and of our multicultural heritage. That is why these studies are important; they reveal our diversity and tell us our unique history.

Ninety-two projects were funded under the 2006-2008 Heritage Incentives Program, for a total of $2.73 million in grants and loans from the Department of Planning's Heritage Office. I congratulate the New South Wales Government and the Heritage Office on supporting these important projects and I hope that many more such important projects can be funded in future to help reveal our many untold stories. I shall organise community consultation and support for the final realisation of the objectives of these three projects.

## ORICA AUSTRALIA TREATMENT PLANT

**Mr IAN COHEN** [9.58 p.m.]: Orica Australia Pty Ltd has recently been forced to close down its plant treating contaminated plumes of groundwater beneath parts of Botany. This puts the Government on notice that the whole site is a toxic time bomb that must be dealt with urgently. It may have bigger problems than just the ground water plume, although that is a very serious issue in itself. As has been well documented, the Botany site has massive stockpiles of toxic waste. Included among that waste are more than 50,000 drums of hexachlorobenzene [HCB], 1,000 additional tonnes of HCB stored in concrete tanks, and 45,000 cubic metres of contaminated soil ash and peat containing HCB, carbon tetrachloride and chlorinated hydrocarbons.

HCB is a chemical compound which does not break down easily; it adheres strongly to soil and can be spread by water and air. Humans can be exposed to HCB by breathing low levels in the air, drinking contaminated water or eating contaminated fish. When burned, it produces high levels of dioxin, which is one of the most toxic man-made chemicals. Adding to the danger is the fact that HCB is corrosive, which means that it has to be periodically repackaged. Obviously this process significantly increases the risk of an accident. It has

the potential to be a disaster of massive proportions. In February 2001 there was a massive fire at the much smaller Waste Control Pty Ltd treatment plant in Bellevue, an eastern suburb of Perth. The incident endangered the lives and health of nearby residents. Temperatures reached up to 1,200 degrees, and a series of explosions sent 44 gallon drums of burning waste into the air, landing just short of houses.

Volunteer firefighters working without protective apparatus suffered nose bleeds and vomiting, and had to be hospitalised. By pure luck the wind blew the resulting plume of toxic smoke and ash away from more densely populated areas and towards Perth's flight path to the airport. This saved the population from what would have been a serious threat to their health. A freight derailment in July 2000 spilled naphthalene along a private freight line in Botany, not far from Orica's Industrial Park. This waste must be dealt with immediately, safely and on site. For many years Orica ignored the problem completely. When it finally confronted the problem it decided upon a method of disposal known as Geomelt.

Geomelt is an incinerator-like technology—in other words, the intention is to get rid of this waste by burning it at extreme temperatures. There have been two previous applications of this technology in Australia, and they do not provide much comfort. In the first application the destruction of HCB waste by Geomelt was gauged on behalf of Orica in a series of three trials. During all three trials the recommended dioxin emission limit was exceeded. The other application was at Maralinga in South Australia. It resulted in seven separate explosions, one of which was so severe it caused total failure of the treatment plant.

The obvious dangers of this process occurring in the middle of the city are obvious, and even Orica is aware of that. Its proposed solution, however, fixes the wrong problem. Instead of looking for another way of treating the waste on site, it is planning to move the waste to a so-called remote location. It has hit a snag in that no council in New South Wales has so far been prepared to have this waste treated in its backyard, and understandably so. Another problem with this plan lies in the incredible danger posed to the community by the transportation process, which is why in 1996 the Australian National Advisory Body [NAB] on Scheduled Waste recommended that HCB waste should be destroyed "as close to the source as possible". The NAB's national management plan for hexachlorobenzene stated that the reason for this was the significant risk in transporting such a large stockpile of waste and Australia's proven ability to destroy hazardous waste in an environmentally sound manner.

Non-incineration alternatives to destroying HCB stockpiles are commercially available. One alternative, Gas Phase Chemical Reduction [GPCR], has operated commercially in Australia and in other countries for many years. Trials to destroy HCB waste with GPCR have been successful. In a comparison between the available technologies in Orica's environmental impact statement, GPCR outscored Geomelt in air and water emissions, total environmental impact, and social impact. Geomelt has clearly been selected by Orica as the preferred option because it costs less, not because it is the most effective technology. Orica has justified this course of action by relying on the. report of an independent review panel commissioned by Craig Knowles when he was the Minister for Infrastructure and Planning.

This panel relied heavily on information given to it by Orica, and its report noted that this information was "somewhat subjective". The panel also concluded that it did not have enough information to make a decision on the merits or otherwise of alternative technologies, specifically GPCR. In the end the panel seemed to treat Geomelt as its default method of disposal, and only considered other options in terms of whether they were clearly better than it or not—a hard task given that it had little information on the alternative technologies. This appears to have been a panel operating with one hand tied behind its back.

Having decided on Geomelt via this rather dubious process, it then came to the obvious conclusion that Geomelt was far too dangerous to be used on site. The scientific evidence is clear. Geomelt is dangerous and produces dangerous levels of dioxins. The safest and cleanest option is for Orica to treat this waste on site using GPPR. It must also remediate the site, including affected soils and the associated contaminated groundwater plume, as outlined in the clean-up notice. [*Time expired.*]

## OPEN GOVERNMENT AND FREEDOM OF INFORMATION

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [10.03 p.m.]: Two recent court decisions give a glimmer of hope to those who want to see open government in New South Wales. In the New South Wales Court of Appeal in the case of the *General Manager, WorkCover Authority of NSW v Law Society of NSW* [2006] NSWCA 84, Judge Ruth McColl, with the endorsement of her colleagues, ruled that the New South Wales Freedom of Information Act operates on the premise that there is public interest in the public having

access to government information. To comply with the ruling, government agencies must disclose "working documents" after their significance wanes with time, and they must prove that "tangible harm" will occur if documents are disclosed, rather than argue theoretic scenarios, as was done in that case. The decision was handed down on 24 April 2006, having begun in 2002. The documents sought related to legal costs in the workers compensation system.

This was at the time of changes to workers compensation legislation in the Parliament. The Government was alleging that the costs of the compensation system were due to legal costs, but the documents that supported the Government's allegation were hard to get. Interestingly, Sir Lawrence Street said at the time that the passing of time lead to a change in his decision to release documents to a crossbench briefing last year with regard to the cross city tunnel documents under Standing Order 52. He had modified his view towards more openness.

Another recent case of importance is *McKinnon v Secretary Department of the Treasury*. On 3 February 2006 McKinnon applied for special leave to appeal a previous decision not to release Treasury documents. The appeal was later allowed and will be heard by the High Court later this year. Michael McKinnon, who is the *Weekend Australian* newspaper's freedom of information editor, said that the documents sought related to the income tax bracket creep and the first home owners scheme in the 2002 budget. The transcript of the appeal hearing, referring to the Commonwealth Freedom of Information [FOI] Act, states:

> **KIRBY J:** That signals, does it not, that the scheme of the Act is one which is giving effect to the fundamental and very important governmental purposes of the Act which is to render government accountable? So that suggests that this is quite an important part of the Act in the scheme of protecting legitimate confidences within the working of government, but making that truly exceptional and rendering it accountable to the people through the courts or through Parliament.
>
> **MR TRACEY:** Yes, your Honour.
>
> **KIRBY J:** That is what makes this quite an important question.

In an article in the *Weekend Australian* on 4 May 2006 Chris Merritt, the legal affairs editor, quoted Rick Snell, a senior lecturer in law at the University of Tasmania, who attended my Open Government forum in 2001. Rick Snell said:

> The Commonwealth FOI Act was the nation's most antiquated and restrictive. Ten years ago the Law Reform Commission recommended 106 changes. None has been made. But Mr Snell said it was not beyond redemption.
>
> We are at a tipping point. It is unlikely there is going to be legislative change in the near future at the commonwealth level, but a ringing High Court endorsement of the general principles—and taking up McColl's call [for] leaning towards the public interest in release—could well change the way the Government responds to FOI applications.
>
> One of the biggest problems was the way the procedures under the Federal Act could be manipulated to delay disclosure and increase costs in the hope that journalists would lose interest.

This is exactly what happens in New South Wales under our FOI laws. Robert Cianfrano is one constituent who has been challenging the FOI laws for many years now. He has been trying to get information regarding the sale of public assets, in particular the Sydney Markets site at Flemington and the Beacon Hill High School site. The level of obfuscation, delay, buck passing and time wasting of government departments is staggering. Mr Cianfrano must regularly challenge decisions not to release documents through the Administrative Appeals Tribunal. The Government fights these actions all the way, wasting taxpayers' money in hiding documents that should be publicly available as a matter of course.

On 16 November 2004 I asked in this House how much it had cost the Government to stop Mr Cianfrano from getting the information he sought. The answer from the Premier's Department was that it did not pay the Crown Solicitor any fees for the work, but the costs were covered by a "core legal services" arrangement between the two departments. Once again, no answer and more obfuscation! Mr Cianfrano pursued the matter and finally got documents showing the amount the Crown Solicitor had charged other agencies for his FOI requests. From 1 July 2004 to 2 March 2006 the fees were $210,929.28. That is staggering. It is a scandal and an outrage that so much money is being wasted to keep the Government's failings secret.

Journalists are constantly forced to seek information about government projects through FOI. The most recent example involved the Lane Cove tunnel. The *Daily Telegraph* discovered that the use of 200 metres of road leading to the Falcon Street off-ramp will be tolled at $1.20 when the Lane Cove tunnel opens. We had the same difficulty getting information about road closures relating to the cross city tunnel. That lack of disclosure

resulted in a parliamentary inquiry costing more money to find information that should be made public as a matter of course.

The people of New South Wales deserve better. They deserve open government. But as long as the State is ruled by the two major parties, that will not happen. We need a new political system which is open and accountable and which represents the views and wishes of the majority of citizens. My forum on open government can be found by simply typing "Open Government" into Google. The web site is *www.nsw.democrats.org.au/OPEN_GOVERNMENT_FORUM.htm.*

## SNOWY HYDRO LIMITED SALE

**The Hon. MELINDA PAVEY** [10.08 p.m.]: One of the joys in this job of representing the people of New South Wales in the Legislative Council, which I take very seriously, is the number of people who understand the processes of Parliament and understand that we are their voice, in addition to the voice they have in the Legislative Assembly. The people of the Monaro electorate, in particular, gave voice well and truly to a number of issues that they are concerned about. I refer to an interview on ABC Radio South East today. Many good people rang in, but one comment in particular that struck me was:

> I haven't made a decision on whether or not it's appropriate for me to buy shares if I can afford 'em. I don't know how much it'll cost.

That person went on to say:

> Oh no, I think there's probably not a financial conflict of interest but from my point of view, as somebody who's so vehemently opposed to selling the thing I guess I'm not sure that I'll end up buying shares or not.

Then again, maybe he will. For that person it is about being able to afford them, not the moral responsibility that that person has to do the right thing by the people in that person's community. It is relevant to point out these comments. That person has an incredible position of importance. Keva Gocher, the interviewer, is a really good rural-based reporter on the ABC Radio South East. He asked that person whether he had a personal interest and that person went on to say:

> I haven't made a decision on whether or not it's appropriate for me to buy shares if I can afford 'em. I don't know how much it'll cost.

That statement was made by someone who has been opposed to the sale of Snowy Hydro from day one, but it appears that that opposition has been crocodile tears. This interview went to air at 6.30 this morning but it was a pre-recorded interview. It was a good interview that covered a lot of issues. One was the share cap of foreign ownership of Snowy Hydro. It has been said in the local community that the Government might impose a 10 per cent share cap, but in four years at an annual general meeting the shareholders could vote to on-sell their interests to a majority shareholder who may not be in this country. So, in only four years, foreign investment could control this national icon.

As I explained earlier, Snowy Hydro has an amazing place in Australia's history. It has a strong place in Australia's identity and the identity of many people who migrated to this nation and worked on that scheme, as well as the tens of thousands of families who have lived off irrigation. Honourable members would be amazed that the person who said those things in the interview this morning was Steve Whan. As at 6.30 this morning the honourable member for Monaro was going to buy shares in Snowy Hydro. [*Time expired.*]

## GOOD NEWS PRINTING EMPLOYEE ENTITLEMENTS

**The Hon. PETER PRIMROSE** [10.13 p.m.]: Honourable members will recall that I recently advised the House about a company called Good News Print, and the problems that have occurred there. To refresh their memory, Good News Print publishes Korean religious and other community language material. The company has a chequered financial history, having already been placed into administration once. It was then "sold" to the mother of the original owner, Dr Lee, a Sydney heart surgeon. It has recently been sold again, to one of Dr Lee's creditors, who claimed that this was in lieu of payment of outstanding debts.

When I last addressed the House on this matter I advised that the employees of Good News Print had never been paid their correct wages. Neither had they been paid their penalty or other allowances. They had not even received pay slips so they could monitor their own wages. Apparently Dr Lee had also not paid their tax, or their superannuation, or any of their other entitlements, although they had been regularly deducted from the workers' wages.

The Australian Manufacturing Workers' Union [AMWU], which represents workers in the paper and printing industry, tried for weeks to meet with Dr Lee and the new owner, variously known as John Wu or John Hu. When all reasonable attempts failed, the AMWU sought orders in the New South Wales Industrial Relations Commission for management to produce necessary accounts so that action could be taken to recoup the workers' money. I told the House on the last occasion that under the Federal Government's new so-called WorkChoices legislation it is impossible for ordinary workers or their unions to chase unscrupulous employers on issues such as those I have outlined. The Australian Industrial Relations Commission has been so neutered by the Federal Government that it has no power to require employers to appear before it, much less to issue orders such as those that are required in this case.

When Dr Lee and Mr Wu or Mr Hu appeared before the New South Wales Industrial Relations Commission on 21 April they told the commission they would make arrangements for the employees to be paid all of their outstanding moneys and provide all accounts records to verify these payments. When the union, on behalf of its members went to the address given to them by Dr Lee, no such place existed. However, never one to be put off by such details, the union did find the doctor's accountant. Imagine the surprise when the accountant not only refused to hand over any records, but also had made no arrangement for the payment of the employees' outstanding money!

To make matters worse, the accountant advised the union that Dr Lee now owes additional funds to Mr Wu or Mr Hu, compounding his original debts, and still owes fines and other moneys to the Australian Taxation Office [ATO]. He also told the union that the repayment of the workers' superannuation deductions would only be made after the fines and other outstanding debts to the ATO had been paid. Events at Good News Print are by no means unusual. Every day since the Federal Government introduced its odious new industrial relations legislation there have been countless examples of workers being exploited by unscrupulous employers.

Dr Lee's behaviour is no different from other employers who believe that they have a right to use whatever means are available to maximise their profits, while bearing no responsibility for the fair treatment of their workers who make those profits possible. The owner of the Cowra abattoir said it all when he told the media that when he sacked his work force and forced them onto lower wages and individual contracts he was doing nothing more than implementing the new Federal legislation. John Wu or John Hu said it all when he told his employees that he could do what he liked with them—just like when he bought a new car! Despite the culture being encouraged by the Federal Government's Orwellian legislation, New South Wales workers are not cars and they cannot be treated like objects.

I congratulate the New South Wales Minister for Industrial Relations on continuing to defend the rights of New South Wales workers and on ensuring that at least in New South Wales the AMWU and other unions have an opportunity to pursue unprincipled employers on behalf of their members through the New South Wales State Industrial Relations Commission. I will keep the House updated on the union's progress on behalf of its members in this matter.

## DEATH OF THE HONOURABLE BERYL ALICE EVANS, A FORMER MEMBER OF THE LEGISLATIVE COUNCIL

**The Hon. PATRICIA FORSYTHE** [10.18 p.m.], by leave: Today hundreds of people gathered at St Johns Cathedral, Parramatta, to pay tribute to the remarkable life of the Hon. Beryl Alice Evans, OAM, who served the people of New South Wales as a Liberal member in this place from 1984 to 1995 and who died on 16 May 2006. In the time available to me tonight, it is not possible to do justice to the many achievements of Beryl Evans because her name is synonymous with service. My colleague the Hon. John Ryan will also refer to aspects of her service. When Beryl Evans was elected to Parliament in 1984, only 25 women had to that point served in the Parliament of New South Wales. It would have been of no surprise to anyone who knew Beryl that she was one of the pioneers for women in politics in New South Wales.

Beryl Evans came to the Parliament after seemingly a lifetime of service to Australia through the Australian Air Force in Second World War and afterwards to her local communities, firstly in Dunedoo in the 1950s and 1960s, and Rylstone and Kandos in the 1970s and on. Throughout those communities the legacy of her tireless community work lives on. Dunedoo Town Hall and the Dunedoo swimming pool are physical reminders of her community activities. Through a variety of fundraising activities, Beryl was able to galvanise her community to raise the funds for their construction. In true Beryl style though, the fundraising was never tedious or boring but based on variety shows produced by Beryl and starring most of the community luminaries or through balls and other fun activities. She used to bring together the local community for the common good.

It was of no surprise to anyone that in 1962 Beryl Bowman, as she then was, became the first woman councillor on Coolah Shire Council. Beryl served there for nine years. Whilst a councillor Beryl served on the Ulan County Council, she was civil defence controller for the shire for 12 years and she took a lead in promoting local tourism. In 2002 the community of Dunedoo placed a plaque in the main street to commemorate Beryl's work. In the mid 1970s Beryl's life took a different course when she moved to Rylstone, having married the Hon. Richard Evans, a Liberal member of the Legislative Council. So began Beryl's 30-year partnership with Dick, with whom she shared so much. Beryl set about re-establishing the local chamber of commerce and ensured that the communities of Rylstone and Kandos focused on community activities to enhance and promote the local communities to the benefit of all.

It was in the 1970s that Beryl's profile within the Liberal Party rose. In the years prior to her election to the Legislative Council Beryl served as Vice-President of the Women's Council, and then Dick and Beryl served as the party's two country vice-presidents for a number of years. Beryl was a mentor to many and a great friend to the Young Liberal movement. She was elected to the Legislative Council in 1984 and gave her first speech on 15 August 1984, in which she noted links to past members, not only Dick but one of his great-grandfathers and family members of her first husband. In her first speech Beryl reminded the House of the philosophy in which her actions were grounded. Beryl was a true Liberal who believed in individual freedom, equality and the dignity of man. Beryl served the Liberal Party and the State with great distinction. As a member of the Legislative Council, Beryl served as Government Whip from 1990 to 1991.

Beryl was the first woman to serve as Temporary Chair of Committees and served with distinction on the Standing Committee on State Development and the Joint Standing Committee on Road Safety, Staysafe. For a number of years Beryl chaired the privileges committee and served on the executive of the Commonwealth Parliamentary Association. How she reached that particular achievement is, I understand, a story in itself. Health, especially women's health issues, and education were her policy passions, together with all issues that impact on rural communities. Beryl promoted those policies not only within the Parliament but also in the community. For a long time she drove the concept of Cancer Awareness Week amongst many employers in Sydney and across New South Wales.

To talk about Beryl merely in terms of positions held and work done, whilst it gives an indication of her outstanding contribution to the community, tells us little of the person who was Beryl Evans. She had style, she was elegant, she had spirit. She was strong, feisty and opinionated, but fun and a great friend to many. Beryl was always immaculate in appearance. She is recalled by all for her beautiful silver hair, her stilettos and her inherent sense of style. All who knew her in this place will have stories to tell. Beryl could be patrician. I recall her pulling up a colleague on my first day in the members' dining room for his attempt to remove his jacket. Although that offended her understanding of manners, Beryl was quite capable of stealing hot chips from a colleague's plate at dinner! Beryl was fun but strong on issues that mattered. History should recall the quite famous walkout in 1991 from the Legislative Council of all but two of the women MLCs on a bill in relation to abortion. Beryl was one of the prime instigators of that strategy.

Beryl had many fans. Today many former members of the House were at her funeral—Ted Pickering, John Jobling, John Hannaford, Greg Percival, Michael Egan and Bruce Chadwick, on behalf of Virginia Chadwick. Brian Pezzutti gave one of the eulogies. Brian and Virginia were Beryl's good and special friends, and they will miss her dearly. I am sure all members of the House join me in extending to Dick and Beryl's sons, Christopher and Gawain Bowman, and their wives, Lyndy and Cathy, Beryl's grandchildren, Kate, Sam, Lizzie, Alexis, Jennifer, Ross and Cameron, and her great-granddaughter, Emily, our sympathy on her passing and our thanks for sharing Beryl with us.

**The Hon. JOHN RYAN** [10.25 p.m.], by leave: Tonight I pay tribute to a former member of the House and a grand lady, the Hon. Beryl Evans, OAM. I had the pleasure of working with Beryl from 1991 until her reluctant retirement from the Legislative Council in 1995. I borrow the word "reluctant" from the address today of my colleague the Hon. Brian Pezzutti, who put it quite eloquently. Beryl was a great lady of style, one of the most glamorous woman members of Parliament I have ever met, from the top of her well-coiffed, white bouffant hair, to the dazzling rings on her fingers and to the silver tips on her stiletto shoes. She was also the proud owner and driver of a red Nissan 300X sports car.

Beryl commenced service as a Liberal Party member of the Legislative Council in 1984 at the age of 62, an age when many of us aspire to retirement. She did so after establishing her credentials as a high achiever in the rural communities of Dunedoo and Rylstone and after defeating one of the high-profile members of the Liberal Party, Bronwyn Bishop, in a very hard fought and legendary preselection by a single vote. I confess I

was the member that my colleague the Hon. Patricia Forsythe referred to who was corrected very abruptly for removing my coat in the parliamentary dining room. How standards have changed! I attended Beryl's funeral today at St Johns Cathedral, Parramatta, where many aspects of Beryl's incredibly full life were highlighted, particularly in a tribute presented by another of our former colleagues, the Hon. Brian Pezzutti.

I would particularly like to focus on one aspect of her service to the community: her war service as a member of the Women's Auxiliary Australian Air Force [WAAAF] and, more recently, her service as the President of the WAAAF Association. Her friend Betty Cameron from the WAAAF Association eloquently outlined her association with that organisation. Beryl entered the WAAAF in 1942 to follow in the footsteps of her father, who was an Australian pioneer pilot. He was Australia's second ever commercial pilot and a member of the Royal Flying Corps—because Australia did not have an air force in the First World War. He also saw service in the Second World War. Beryl entered WAAAF for "King and country". As a republican, I have to acknowledge that she meant King and country, because Beryl was a very strong constitutional monarchist. She demonstrated this by being patron of Australians for a Constitutional Monarchy and was one of their candidates in the ballot for the constitutional referendum that was conducted in 1999.

The WAAAF was the first and largest Women's Service to be formed in Australia, other than the nursing services. Despite some resistance from members of the War Cabinet and Commonwealth bureaucrats, the WAAAF came into existence in February 1941 in response to an urgent need in the RAAF for wireless telegraphists. Women in the WAAAF also supported the work of the Air Force in numerous trades, including technical employment on aircraft, making armaments, electricians, fitters, flight mechanics, fabric workers, instrument makers, metrological assistants, clerical, medical transport, signals and radar fields of employment. Its members were greatly disappointed—and I recall Beryl saying so in the House—that only a few of them were able to see service outside of Australia in the Solomon Islands and New Guinea. They were frequently known at the time as either blue orchids in winter or brown onions in summer, according to the colour of their uniforms. WAAAF was disbanded in December 1947.

Beryl served as a physical training instructor and a drill instructor before being commissioned as an officer in 1944. Most of her service was in the Dubbo area as a section officer, demonstrating diligence and professionalism in military duties, but also as the organiser of great entertainments and concerts. She had drama, music and ballet skills, and we saw all of those on display when she served in this Chamber. I also saw some of them in the party room when she made submissions to various Premiers. She was discharged after the war in September 1945, but her service in the WAAAF remained one of her proudest achievements.

From 1997 until her death she was the President of the WAAAF Branch of the RAAF Association, NSW Division. Every Anzac Day Beryl participated in the annual march in Sydney in her signature stilettos with her WAAAF Association colleagues from beginning to end. She also participated in the annual commemoration the day before Anzac Day conducted by servicewomen at the Jessie Street Memorial and the annual women's march and wreath laying at the Cenotaph in Martin Place. The community often does not hear about that ceremony, but it is a regular part of the Anzac Day program.

While Beryl was still a member of this House and afterwards she sponsored a number of huge functions in the Strangers Dining Room at Parliament House, which hundreds of veteran servicewomen from the WAAAF, the Australian Women's Army Service, the Women's Royal Australian Naval Service and the Women's Land Army attended and relived old times. I attended many of these functions as the guest of my mother, Rita Ryan, who was a member of the Victorian WAAAF. In 2004, at one of these luncheons called Women at War, Beryl donated a very impressive framed montage of war medals awarded to servicewomen at war from the Boer War to the present that she hoped would be displayed somewhere in the Parliament. I understand that, courtesy of the Speaker, they have been displayed.

As one would expect, dozens of servicewomen attended her funeral today at Parramatta and they formed a huge guard of honour outside the church after the service. She was highly regarded by them and they were the primary initiators of her nomination for an Australian honour. On Australia Day this year she received an OAM for service to the community through a range of ex-service, parliamentary and local government organisations. I am sure that all who new Beryl would regard that as a much-deserved honour and would be grateful that she lived long enough to receive it from the Governor.

One of Beryl's last acts as the President of the WAAAF Association took place a month ago when she led their contingent at the front of the Air Force section of the Anzac march. The WAAAF had been accorded the honour of leading air service veterans because this year commemorates 65 years since the WAAAF was

formed. Beryl had not kept very good health in recent months. I pay tribute to the fact that in recent times she has nursed her husband, Dick, who was a member of this House, personally and passionately, and probably to the cost of her own health. Her recent ill-health meant she had to relinquish that role.

However, I am told that while she was in hospital being treated for cancer she was working with a personal trainer so that she could complete the Anzac Day march unaided in her stilettos. Sadly, that was not to be, but there was a proud sequel. She had the honour of being escorted by her grandson Mr Ross Bowman, who is a member of the RAAF based at Wagga Wagga. He told me today that Beryl often ordered him to stop during the march so that she could speak to various people. Those of us who know her would understand that. Beryl's life was typified by the sentiment expressed in the message of the Gospel of St John, chapter 15, which was read during the service today:

> Greater love has no one than this, that someone lay down his life for his friends.

Fortunately, Beryl was not required to make the ultimate sacrifice, but she did make many sacrifices of her time and effort to serve her family, her community, this Parliament and her country. I recall that one of her last acts in this Parliament was to vote against her party on the formation of a committee to manage the Parliament. She had served as this Parliament's representative on the Commonwealth Parliamentary Association, and reference has been made to how that opportunity arose. Obviously during that time she developed an enormous passion and great respect for the way in which this Parliament operated.

As a result of the Greiner Government's making a deal with Independents about the formation of a board of management for this Parliament, it felt obliged to introduce a bill that would have removed the management of the Parliament from honourable members and given it to an independent board. Beryl was one of the few members of my party who not only had the courage to speak against the proposal but also to vote against it. Perhaps as a result of her action that legislation was never assented to and the committee was never established. She was a great supporter of the rights of this House. It is tragic that Beryl was taken by the disease that she spent so much time campaigning to eradicate: cancer. However, she fought bravely. She has now made her final flight and she will never be forgotten by those who loved and admired her.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [10.34 p.m.]: Beryl Evans served the community well, not only in local government and this Parliament but also in her retirement. She constantly knocked on my door during my tenure at Town Hall from 1991 to 1999. Inevitably she would come in the doorway and announce herself as "the Hon. Beryl Evans", and make requests on behalf of the women's auxiliary or the WAAAF, Jessie Street Memorial or some other organisation. I was most impressed on one occasion when she marched in and told me that Sir Roden Cutler would be attending the Anzac Day ceremonies and said that she wanted me to make my office available for the former Governor's exclusive use. What could I do?

**The Hon. John Ryan:** You give up the room!

**The Hon. HENRY TSANG:** I caved in. She ensured that the tea and coffee were ready for Sir Roden Cutler and went to great lengths to ensure that every detail was covered. She served the nation well during her time in local government, in this Parliament and in retirement. I pay tribute to her and send my sympathy to her family.

**Motion agreed to.**

**The House adjourned at 10.37 p.m. until Thursday 25 May 2006 at 11.00 a.m.**