LEGISLATIVE COUNCIL

Thursday 8 June 2006

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

The Clerk of the Parliaments offered the Prayers.

TAMWORTH SCHOOL EDUCATION INFRASTRUCTURE

Production of Documents: Order

Motion by the Hon. Don Harwin, on behalf of the Hon. Catherine Cusack, agreed to:

That under Standing Order 52 there be laid upon the table of the House within 14 days of the date of the passing of this resolution the Department of Education and Training's options paper, or the latest draft thereof, for school education infrastructure in Tamworth which was due for release in March or April 2006, in the possession, custody or control of the Minister for Education and Training or the Department of Education and Training, and any document which records or refers to the production of documents as a result of this order of the House.

LEGISLATION REVIEW COMMITTEE

Reports

The Hon. Penny Sharpe, on behalf of the Chair**,** tabled the following reports:

(1) Report No. 4, entitled "The Right to Silence: Responses to the Discussion Paper", dated 8 June 2006

(2) Discussion Paper No. 2, entitled "Strict and Absolute Liability", dated 8 June 2006, together with minute extracts

(3) Minute extracts for Legislation Review Digest Nos 6, 7 and 8 of 2006 and minute extracts and submissions for Discussion Paper No. 1, entitled "The Right to Silence", dated 21 September 2005

Ordered to be printed.

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

Report: 11th Meeting on the Annual Report of the Health Care Complaints Commission

The Hon. Christine Robertson, on behalf of the Chair, tabled report No 12/53, entitled "11th Meeting on the Annual Report of the Health Care Complaints Commission", dated June 2006.

Ordered to be printed.

The Hon. CHRISTINE ROBERTSON [11.04 a.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Christine Robertson.

GENERAL PURPOSE STANDING COMMITTEE NO. 5

Report: A Sustainable Water Supply for Sydney

Mr Ian Cohen, as Chair, tabled report No. 25, entitled "A Sustainable Water Supply for Sydney", dated June 2006, together with transcripts of evidence, tabled documents, correspondence and answers to questions taken on notice.

Report ordered to be printed.

Mr IAN COHEN [11.06 a.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by Mr Ian Cohen.

PETITIONS

Anti-Discrimination (Religious Tolerance) Legislation

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

Snowy Hydro Limited Sale

Petitions calling for a plebiscite to be held at the same time as the State election in March 2007 to gauge public opinion on the sale of Snowy Hydro Limited, received from **the Hon. Duncan Gay** and **Ms Sylvia Hale**.

Ms Roseanne Catt Quashed Convictions

Petition requesting that the House call on the Government to offer a public apology to Ms Roseanne Catt, call on the Attorney General to investigate allegations of conspiracy, perjury and contempt of court in the original trial and appeal processes, and to investigate allegations that certain persons fraudulently obtained victims compensation funds on the basis of the false convictions against Ms Roseanne Catt, received from **the Hon. Peter Breen**.

Same-sex Marriage Legislation

Petition opposing same-sex marriage legislation, received from **Reverend the Hon. Dr Gordon Moyes**.

College of Fine Arts and National Art School Amalgamation

Petition stating that the amalgamation of the College of Fine Arts and the National Art School will diminish the choice in fine arts higher education available to future generations and requesting that the House consider higher education models for the arts sector that will allow for a continuation of the fine arts degree program, received from **Ms Sylvia Hale**.

Local Government Amendment (Waste Removal Orders) Legislation

Petition requesting that the House oppose the Local Government Amendment (Waste Removal Orders) Bill, received from **Ms Lee Rhiannon**.

JOINT STANDING COMMITTEE ON ROAD SAFETY

Membership

The PRESIDENT: I inform the House that I have received advice that the Hon. Robert Brown will be appointed as the crossbench member on the Joint Standing Committee on Road Safety.

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

That Mr Robert Brown as a member of appointed to the Joint Standing Committee on Road Safety in place of Mr John Tingle, resigned.

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

NATIVE VEGETATION ACT 2003: DISALLOWANCE OF NATIVE VEGETATION AMENDMENT (PRIVATE NATIVE FORESTRY) REGULATION 2006

The PRESIDENT: Pursuant to standing orders the question is: That the motion proceed as business of the House.

Question put.

The House divided.

Ayes, 22

Mr Breen	Ms Fazio	Mr Roozendaal
Ms Burnswoods	Ms Griffin	Ms Sharpe
Mr Catanzariti	Ms Hale	Mr Tsang
Dr Chesterfield-Evans	Mr Hatzistergos	Dr Wong
Mr Cohen	Mr Kelly	
Mr Costa	Mr Macdonald	*Tellers,*
Mr Della Bosca	Ms Rhiannon	Mr Primrose
Mr Donnelly	Ms Robertson	Mr West

Noes, 15

Mr Brown	Mr Lynn	Mr Ryan
Mr Clarke	Reverend Dr Moyes	
Mrs Forsythe	Reverend Nile	*Tellers,*
Mr Gallacher	Ms Parker	Mr Colless
Miss Gardiner	Mrs Pavey	Mr Harwin
Mr Gay	Mr Pearce	

Pair

Mr Obeid	Ms Cusack

Question resolved in the affirmative.

Motion by Mr Ian Cohen agreed to:

That the matter proceed forthwith.

Mr IAN COHEN [11.20 a.m.]: I move:

That under section 41 of the Interpretation Act 1987 this House disallows the Native Vegetation Amendment (Private Native Forestry) Regulation 2006 published in *Government Gazette* No. 74, dated 2 June 2006, page 3933, and tabled in this House on 6 June 2006.

The Government needed to amend the native vegetation regulation by 1 June to allow private native forestry to continue operating under the old rules in the absence of a code of practice because the current regulation only allowed that to occur until 1 June. The regulation, gazetted on 2 June, seeks to extend the period under which private native forestry can continue unchecked until October. The regulation should be disallowed. Until a private native forestry code of practice is introduced, the Native Vegetation Act should apply as it does to other forms of land clearing. More than four million hectares of forests and woodlands on private land in New South Wales can be logged or clear-felled without any meaningful environmental controls. Approximately 30 per cent of all timber logged in New South Wales is sourced from private land. Logging has been exempt under the Native Vegetation Conservation Act 1997 and has not required any assessment or Government approval prior to logging, except for a small subset of logging events on protected lands that require approvals.

When the New South Wales Government introduced the Native Vegetation Act 2003, it committed to introducing a private logging code of practice in New South Wales—a promise that was repeated in the recent native vegetation regulation 2005. However, at this stage the New South Wales Government has failed to deliver. It is now more than two years since the passing of the Native Vegetation Act and there are still no

controls on private logging. It is time to close this loophole under the Native Vegetation Act. Farmers have to go through a vigorous process to clear native vegetation, and loggers should now have to do the same until a proper private native forestry code of practice is introduced. Why should loggers be any different? There must be equity between farmers and loggers. Advice from regional conservation groups is that the current levels of private land logging are extremely high, the mills are full of logs, and panic logging appears to be taking place before the rules are brought in. Logging companies are doorknocking rural landholders to gain access to forests on private land. It has been well recognised for several decades that logging of rainforest and old growth has a significant environmental impact.

It is now almost a quarter of a century since Neville Wran closed down rainforest logging on public land. He made this decision because it was well known even then that rainforest should not be logged because of its outstanding diversity and conservation significance, and its sensitivity to disturbance and very long recovery times. New South Wales Government maps show that more than 500,000 hectares of old-growth forest and 100,000 hectares of rainforest on private land are available for logging on the eastern seaboard of New South Wales. There are also extensive areas of poorly reserved ecosystems and ecosystems that are rare, endangered or vulnerable, particularly in agricultural regions. In mature and regrowth forests, private land logging is removing most of the last remaining big trees. Many hollow-dependent animals will not be able to inhabit the forests of the future. Rainforest logging continues with a vengeance on private land, hidden from sight—the vast majority of the population unaware that it is still allowed.

Logging can occur in large areas of rainforest on private land without any wildlife surveys whatsoever, and without any notification to any public authority. Peak and regional environment groups were appalled by the news that the private native forestry code would be delayed yet again. It undermines the Government's commitment. Regulation of private logging is 10 years overdue. Recent investigations by the environment movement have shown that intensive logging of rainforest, old-growth forests, riparian vegetation and threatened species habitats is commonplace on private land in New South Wales. Uncontrolled logging is having a severe environmental impact. It is completely unacceptable for such a destructive industry to go unregulated. Furthermore, the failure to regulate private logging continues to undermine the entire thrust of the New South Wales Government's native vegetation reforms. It is a massive loophole that will continue to allow high conservation value vegetation to be cleared without any assessment or approval, and it makes a mockery of Government commitments to end broadscale land clearing. The exemption is also a loophole for land clearing, which allows forests to be cleared under the guise of logging, and then converted to agriculture, sub-divided or sold off for development.

The failure by the New South Wales Government to regulate private logging is a major structural loophole in its new native vegetation reforms. The proposed draft code of practice has glaring flaws and major failings. The delivery of a strong regulation for private logging over the next two months is a key issue for the New South Wales environment movement and the Greens. We are absolutely opposed to any further delay. I will give three examples of logging on private land to illustrate the environmental destruction that is occurring under the current loopholes. The first is logging on private land near Dorrigo. The block contains 40 hectares, or 100 acres, of rainforest that was mapped by the New South Wales Government as part of the comprehensive regional assessment process in 1998. Logging has taken place within mapped rainforest. Advice and photos obtained by the North East Forest Alliance [NEFA] indicate that the block contains extensive areas of warm temperate rainforest with towering, old-growth brush box emergents. The logging that is taking place is very intensive. NEFA has seen evidence of rainforest logs stacked up on log dumps—coachwood appears to be the predominant rainforest species being logged and average old-growth brush box stump sizes of 1.5m. NEFA reports no habitat tree retention, poorly constructed roads, no erosion mitigation measures and extensive soil disturbance.

No surveys for threatened species have ever been conducted on the block. However, within a three-kilometre radius there are known occurrences of at least 12 threatened fauna species. Therefore, the block is likely to be a threatened species hot spot, given its outstanding habitat values. Threatened fauna species that have been recorded in the vicinity include old-growth dependent species such as the yellow-bellied glider, sooty owl and powerful owl, and rainforest species such as the rose-crowned fruit dove, red-legged pademelon and wompoo fruit dove. Other threatened fauna that have been recorded include the vulnerable sphagnum frog, square-tailed kite, glossy black cockatoo, koala, eastern long-eared bat and long-nosed potoroo. The block is mapped as a key wildlife habitat, and part of a major regional corridor by the Department of Environment and conservation key habitats and corridors project. It was also identified as part of a centre of endemism for wet forest fauna by the comprehensive regional assessment process.

Logging on private land in the Riverina is used to produce low-value products, mostly sleepers, which produce very poor economic returns. Almost all of the timber goes to Victoria for use as railway sleepers, landscape sleepers or firewood. Victoria is effectively cashing in on the New South Wales Government's failure to regulate private logging in New South Wales, while the people of New South Wales cop the severe environmental impact long into the future. The great majority of river red gum is used to produce low value products, without any value adding and therefore very poor financial returns. The annual volume of river red gum that is being logged in New South Wales is 237,900 cubic metres, which includes 134,900 cubic metres of sawlogs and salvage, and 103,000 cubic metres of residue, which includes firewood. Approximately half of this volume is being logged on private land, amounting to a total of 111,500 cubic metres per annum. Almost all red gum logged on private land is undertaken by mobile sawmills.

Only one permanent mill in New South Wales uses private timber. Most of the red gum timber logged on private land in New South Wales does not contribute to the New South Wales economy, but instead goes to Victoria or South Australia where it is used predominantly for railway sleepers and landscape sleepers. A stand of large, old mugga ironbark trees have just been logged on private land west of Armidale—approx 30 ironbarks in total. Mugga ironbark is a known habitat for the nationally endangered regent honeyeater. The trees are part of one of the recognised key sites for the conservation of this species in New South Wales. One tree was more than 1.3 metres in diameter at base, which, being a slow growing ironbark, indicates that it would be many hundreds of years old. The mugga ironbark is important to the honeyeater because it provides abundant nectar at crucial times of the year when other food sources are scarce. Local bird enthusiasts have been working with landholders to raise awareness of the importance of ironbark for the regent honeyeater. Some landholders in the area have planted ironbarks but the New South Wales Government still has no rules to prevent them from being logged, even when they are a habitat for a nationally endangered species.

I call on the Government to disallow this regulation and make private native forestry subject to the same rules as those applying to farmers and other landholders under the Native Vegetation Act until a code of practice is introduced. The code should be implemented as a matter of priority. I also call on the Government to permanently protect high conservation value forests and woodlands, including mapped rainforest and old growth, waterways, wildlife corridors and rare endangered and vulnerable plant communities. Preserve the last giants—the last remaining trees and logs that are so important for the future survival of hundreds of birds, gliders, possums and reptiles. Save our threatened species. Protect the habitat of threatened species that are harmed by logging or firewood collection, such as the koala, squirrel glider and barking owl. I commend the motion to the House.

The Hon. IAN MACDONALD (Minister for Natural Resources, Minister for Primary Industries, and Minister for Mineral Resources) [11.30 a.m.]: The Government opposes the motion moved by Mr Ian Cohen. We have to be very careful with a motion of this type. One could listen to the emotional pleas by the honourable member in relation to certain sections of timber activity across the State, but inherent in what he is suggesting is a great deal of social and economic disconnection for our regional communities. The Government fully appreciates the importance of forestry on private land as a major resource for the native hardwood timber industry. It is also an important source of farm income. The industry based on this resource is estimated to contribute over $95 million per annum to the New South Wales economy.

The wood sourced from private forests directly employs more than 1,800 people in rural New South Wales. It supplies 50 per cent of the timber that is used by the native forest timber industry. It is part of the State's second-largest and most decentralised secondary industry. Nearly every rural town has at least one sawmill. If the motion moved by Mr Ian Cohen is passed, it will stop in excess of 80 per cent of private native forest activity overnight, and will stop the activity of the remaining forests, which are those on State protected land, within three to 12 months. It will have further downstream effects on the economy of New South Wales, in particular in rural New South Wales. Not only will 1,800 people lose their jobs, but the viability of sawmills that have a mixture of private and Crown logs will be put at risk, endangering more workers and small businesses. This in turn will result in higher prices for sawn native timber.

Timber will need to be either imported or sourced from interstate suppliers, thus increasing the cost of home building in an already depressed market. In many instances, it will also have a downstream negative effect by necessitating the importation of hardwood timbers from countries that do not have anywhere near the regulatory framework that Australia has to protect the environment. There would be a global downside if the motion moved by Mr Ian Cohen is passed. At a time of deepening drought in New South Wales, a further $18 million per annum will be taken from the pockets of farmers and rural landholders who use a private native forestry [PNF] as a source of income.

The Government is not gratuitously delaying the introduction of a PNF code. We are working intensively with stakeholders—environmentalists, industry and agencies—to get a good result for the environment and for the practitioners of PNF and reliant businesses. We will not rush the code through for a second-rate result. We are taking a diversity of views into account. Some people are opposed to the code, and we are working through that. We recognise the importance of PNF to many regional areas. I hope that members opposite share my views about its value. At the same time the Government recognises the importance of protecting the vast biodiversity and habitat values that are provided by private forests, particularly rainforests and old-growth forests.

The New South Wales Government has protected high conservation value forests through the creation of national parks. Since 1995 the New South Wales Labor Government has added more than two million hectares to national parks and reserves, bringing the total to more than six million hectares. The Native Vegetation Act 2003 provides for forestry activities on private land while ensuring that appropriate safeguards are put in place in respect of the environment. However, private native forestry is not uncontrolled and is currently subject to a number of additional legislative requirements including the Threatened Species Conservation Act 1995, the Protection of the Environment Operations Act 1997, the Fisheries Management Act 1994, the Rivers and Foreshore Improvement Act 1948, the National Parks and Wildlife Act 1974, the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy No. 14—Coastal Wetlands, State Environmental Planning Policy No. 26—Littoral Rainforests, State Environmental Planning Policy No. 44—Koala Habitat Protection, and the Environment and Protection Biodiversity Conservation Act 1999.

The clearing of native vegetation on State protected land requires an additional approval under the Native Vegetation Conservation Act 1997. The development concept processed under part 4 of the Environmental Planning and Assessment Act 1979 is applied to the clearing of State protected land. Such approval is based on the interim best operating standards for private forest harvesting. When the code is introduced, in the majority of cases private native forestry activities will be provided for and regulated through the preparation of a property vegetation plan [PVP] under a private native forestry code of practice. A draft code of practice for private native forestry is being prepared and will be adopted under a regulation made under the Native Vegetation Act 2003.

The code will set out silvicultural requirements to ensure sustainable production from healthy forests in the long term. It will also afford appropriate protection measures for rainforests and old-growth forests. The majority of rainforests and significant areas of old-growth forests are listed as endangered ecological communities under the Threatened Species Conservation Act 1995 and, as a consequence, are protected anyway. Unlike previous forestry decisions, the Crown does not own these forests. They are owned by farmers, many of whom are fourth and fifth generation owners and managers of their forests. The code of practice will be a significant step forward for the private native forestry industry, the community and the environment. It will provide industry planning and investment certainty through 15-year consents, with important safeguards for the environment.

For many operators this will be the first time that they have been required to obtain an approval. Under the previous legislation the clearing of native vegetation in a native forest in the course of its being selectively logged on a sustainable basis or managed for forestry purposes generally did not require consent. An important exception to this general exemption is that forestry on State protected land required consent, and still requires consent. When consent is given, conditions are imposed on the operations to protect the environment. To smooth the transition to the new framework the Government has worked intensively with stakeholders to develop a code of practice for private native forestry. This code will set the conditions for granting a property vegetation plan for PNF operations. It will ensure that the industry will be able to operate with minimal disruption and it will ensure that the industry will be able to operate in a sustainable manner.

Until the code is finalised, through the Native Vegetation Regulation 2005 the Government has allowed a transitional period in which forestry operations may occur under the old exemption. It was intended that the code would be completed within six months of the commencement of the Native Vegetation Regulation 2005. This has proved to be ambitious, and a further four months is required to complete the code. Given the diversity of views of the stakeholders and the community—and the very motion we are discussing is evidence of that—the Government is committed to developing a balanced code that protects industry and the environment. For that reason, the Government opposes the motion. The Native Vegetation Amendment (Private Native Forestry) Regulation 2006, which is the subject of the motion for disallowance that has been moved by Mr Ian Cohen, allows an extension of time for the Government to consult with stakeholders and undertake further public consultation before the code takes effect.

The Government is committed to developing arrangements in consultation with farmers, landholders, the timber industry and environmental organisations. I am carefully considering the issue of private native forestry to help to secure a sustainable private forest timber industry while protecting the environment. The net effect of Mr Ian Cohen's motion for disallowance will be to make private native forestry activity illegal. That will endanger the livelihood of many landholders, workers and businesses. This motion is another example of carelessness with the livelihoods of many thousands of workers across New South Wales, particularly in regional New South Wales.

The Native Vegetation Amendment (Private Native Forestry) Regulation 2006, which commenced on 2 June 2006, seeks to extend the transition period by extending the period in which clearing of native vegetation for private native forestry operations may be carried out, under the exemption that was in place under previous legislation. That period is extended to 1 October 2006. This reasonable proposal is intended to provide ongoing certainty for the industry while the final details of how the industry will operate sustainably into the future are resolved. The Government will not be held hostage by a motion such as this to put forward an incomplete code that has not been fully assessed by stakeholders, that does not contain a balanced representation of stakeholder views and that does not protect the environment, community and industry needs. I urge honourable members to oppose the motion for disallowance moved by Mr Ian Cohen.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.40 a.m.]: I support the motion. I am very concerned that the Government is doing exactly what it always does. Basically, it does not take a broad view of a situation, and it believes that the sky will fall if the regulation is immediately disallowed. The Government always speaks of a crisis point, of thousands of jobs to be lost, and so on. In Tasmania old-growth forests are logged, and I do not believe that that is in any way sustainable. Trees that have grown for hundreds of years are being chopped down for woodchips, and New South Wales gets a tiny percentage of the value of those trees in chipboard. For every wool suit that is made the farmer whose sheep grew the wool gets 1 per cent of the value of the suit, and the rest goes to someone else, generally not in Australia because most suits are made overseas.

Woodchipping is a low value way of using our trees. The world is running out of hardwood and as a result wood is very valuable. Some time ago my wife was keen to buy a bedhead. We went to a furniture manufacturer whom I had met socially. He made the bedhead from the stump of a tree that grew on a steep slope. It had been chopped off very high because the machine could not cut lower. He chopped off the stump at an angle to obtain the wood. The longest piece was just on six feet, the length of a bed. From that stump, wood products to the value of $7,000 were made. We are throwing away our trees for a song, when even the stumps can be intelligently used in furniture making. Has the Government done anything to value-add to high quality furniture or other manufacturing? With all the talk about diminishing forests, has the Government done anything about it? Did the Minister for Natural Resources mention it in his speech? No, he did not.

We heard the same story of a crisis, that people will lose their jobs, and so on. Inherently there are two environmental standards: one for State forests and one for private forests. And if a forest is not environmentally good enough, tough! Basically, the Government is saying that it does not like having just one environmental standard when two standards can be applied. The Minister said that other countries have worse standards, that our standards are a little better, so it is better to chop down Australian trees rather than Malaysian, Indonesian or Papuan trees. Be that as it may, New South Wales rivers are in a mess, our environment is in a mess and our endangered species are seriously threatened, so we should start doing the right thing at home.

If the disallowance is not agreed to, we revert to the status quo. Each new regulation replaces an existing regulation, so the idea of reverting to the status quo is not the end of the world as suggested by the Government. In terms of value-adding to our hardwoods, on which very little has been done, the Government needs a wake-up call. Again, the Minister did not mention that. He believes that trees should either be chopped down for woodchips or not chopped down at all. Those are the two options the Government always offers. Given the slow growth of hardwood, the idea that the industry is sustainable is severely bent. The price of hardwood is rising because there is a world shortage, and it will run out very soon. I declare an interest. I have shares in a softwood plantation, but I do not believe that is relevant to this matter, which is about hardwood.

Reverend the Hon. FRED NILE [11.44 a.m.]: The Christian Democratic Party does not support the disallowance motion. We respect private ownership. We cannot expand draconian legislation affecting private property, as happened with the native vegetation legislation that is hurting farmers across the State who are doing the best they can to care for their property as good environmentalists and good farmers. They are still in trouble because of the way that the legislation has been interpreted. We do not want to see any more draconian legislation introduced into this House at the urging of the Greens.

Mr IAN COHEN [11.45 a.m.], in reply: I thank all honourable members who participated in this debate, rushed as it was at this stage of the parliamentary sitting. Historically in this House I have voiced my concerns and I am ready again to raise issues about native forest logging, particularly rain forest logging in New South Wales. Private native forestry is uncontrolled. At the 1982 Labor State Convention a former premier of this State said:

> If I am to be remembered for anything by future generations, it is the fact that we saved the rain forests of New South Wales.

That was Premier Wran speaking at a time when it was appropriate to make such statements. The New South Wales Labor governments under Premier Wran and Premier Carr were responsible for saving significant areas of rain forests and old-growth forests in New South Wales. However, despite assurances and the quietening down of a very strong campaign, supported by a massive number of people in the community who are hardened conservationists, today on private land in New South Wales rain forests, coachwood and other species are being logged. As the Minister for Natural Resources said, rain forests in this State cannot be logged in a sustainable manner. The rain forests regenerate very slowly. When they are logged, we do not end up with a replacement rain forest.

The highest rate of loss of threatened and endangered species in the world is happening in New South Wales. This State is no Third World country in which people who are desperate to survive are deemed to be allowed to go into a rain forest. This is New South Wales, Australia. It is incumbent on the Government, if it allows logging on private lands, to require that such logging be conducted sustainably and only to the same extent as on public land. However, that is not the case in New South Wales today. The Government cannot have it both ways.

In the past I have supported the restructuring of the industry. The Greens have voted in this House for the allocation of millions of dollars, as suggested by the Government in various rounds of forest protection discussions, to support the workers in the industry so the restructuring can occur. The Greens are on the record as supporting that. We want intelligent, reasonable restructuring so that sustainability can occur in all aspects of the industry. The statement of Reverend the Hon. Fred Nile fits well with the content of some of his circulars. He respects the rights of people to do what they like on private land, and this society is very much based on ownership of private land. But the huge majority of people in this State treat their private land with respect in accordance with the laws of the State.

Many people want to develop their land in various ways and to change or modify their environment, and when they do so they respect the laws regarding native vegetation and forest clearing. Developers along the coast have to observe certain laws and go through significant processes before their development is approved and goes ahead. Reverend the Hon. Fred Nile said that, somehow, private land ownership gave people the right to destroy the very fabric of our environment.

The Hon. Greg Donnelly: He didn't say that, Ian.

Mr IAN COHEN: Reverend the Hon. Fred Nile did say that.

The Hon. Greg Donnelly: That is rubbish.

Mr IAN COHEN: I heard Reverend the Hon. Fred Nile refer to the right of people to use private land as they saw fit. Some rights are overridden by the laws of this State—laws to which we have to refer whenever we undertake any form of development. I heard Reverend the Hon. Fred Nile say that and I stand by that statement. It is interesting to see the extreme Right in the Government working with the extreme religious Right in this House for some old-fashioned biblical concept—the right to use one's land as one sees fit. That concept is a little outdated. The Government must take into account the pictures that have been taken—

Reverend the Hon. Fred Nile: You are a socialist.

Mr IAN COHEN: I acknowledge the interjection of Reverend the Hon. Fred Nile. He called me a socialist because I want to maintain balance and diversity in this State. Reverend the Hon. Fred Nile is so bereft of argument that he comes up with the old shibboleth of a conservationist being a socialist.

Reverend the Hon. Fred Nile: The red green party.

Mr IAN COHEN: That is about the fifteenth time that creative comment has been made in this House. Reverend the Hon. Fred Nile should say that to the 70 per cent of people who want to save the rainforests of this

State. He should say that to the massive number of conservationists who want to protect the tiny remnants—and I am talking about 3 per cent—of rainforest and old-growth forest. We have an irreplaceable heritage. The Government must consider implementing the same level of protection that has been implemented for some time in relation to forestry logging processes on public land.

This motion is nothing more than that. I have not made any radical statements. I stand in this House of great conservatism and cop vilification with a sense of pride. Government members should live by their own rules in all areas of this State. They should not make a mockery of this issue. On the one, hand they claim to be great conservationists and, on the other hand, they are allowing unregulated logging of rainforests in this State. I am sure they will say what great conservationist they are in the lead-up to the next election. That is not good enough. The Government has to act now. I thank all honourable members for contributing to debate on this disallowance motion and commend it to the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 4

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

Noes, 28

Mr Breen	Miss Gardiner	Ms Robertson
Mr Brown	Mr Gay	Mr Ryan
Ms Burnswoods	Ms Griffin	Ms Sharpe
Mr Catanzariti	Mr Lynn	Mr Tsang
Mr Clarke	Mr Macdonald	Mr West
Mr Colless	Reverend Dr Moyes	Dr Wong
Mr Donnelly	Reverend Nile	
Ms Fazio	Ms Parker	*Tellers,*
Mrs Forsythe	Mrs Pavey	Mr Harwin
Mr Gallacher	Mr Pearce	Mr Primrose

Question resolved in the negative.

Motion negatived.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

POLICE BUDGET

The Hon. MICHAEL GALLACHER: My question is directed to the Treasurer. Does the Treasurer recall telling the House yesterday, less than 24 hours after he delivered the budget, that if NSW Police needs to seek appropriations to make up for a funding shortfall in order to pay police officers, fund police pay rises and pay for staff redundancies, the Government will seek these appropriations? Is that statement an indication that within 24 hours of delivering the budget the Treasurer was prepared to walk away from the spending projections that it contains?

The Hon. MICHAEL COSTA: No.

BLACKTOWN HOSPITAL STILLBORN BABY CARE PROCEDURES

The Hon. IAN WEST: My question is addressed to Minister for Health. Will the Minister advise the House on the progress of the investigation at Blacktown Hospital?

The Hon. JOHN HATZISTERGOS: I am sure that all honourable members shared my shock and sadness upon hearing about baby Angelina, the stillborn baby whose body disappeared from the Blacktown Hospital mortuary. This was a tragedy, and I again express my deepest sympathies to her family. Honourable members will be aware that there have been a number of investigations into this issue. Two of these—a police investigation and a preliminary report by the area health service—have been completed. In addition, I have referred the matter to the Health Care Complaints Commission for investigation.

Today I can advise the House that the independent inquiry being conducted by Professor Caroline Homer has been completed and the report has been provided to me this morning. I understand that Professor Homer requested, and was granted, a 24-hour extension to complete the report. The chief executive officer of Sydney West Area Health Service is meeting with the family to discuss the inquiry's findings. I am advised that today was the earliest time that all relevant staff and Professor Homer were available for a meeting. As honourable members will understand, the report contains private medical information. Therefore, while a copy of the full report will be provided to the family, the report will not be made public without their permission. While I cannot comment on the detail of the report, I can report to the House on its conclusions and recommendations. The inquiry found:

> … there is no evidence of a cover up by the Administration of Blacktown Hospital.

The inquiry concluded:

> … on the balance of probabilities, baby Angelina was inadvertently removed from the mortuary with clinical material on 17th May 2006.

The report identifies a number of factors that may have contributed to this outcome. The inquiry further concluded:

> … this incident is the result of an unfortunate sequence of events, and although procedures were followed, they were inadequate to prevent this occurrence.

The report went on to state:

> … with the benefits of hindsight there are clear weaknesses in existing procedures.

Finally, the report concluded:

> … there is no evidence of gross negligence on the part of any individual …

The report has not recommended disciplinary action against any individual. The report makes a number of detailed recommendations to improve current procedures and to prevent any repeat of this tragic incident. These recommendations include: improvements in the identification of stillborn babies and foetuses under 20 weeks, changes to mortuary storage and security procedures, clearer policies regarding the removal of clinical material from the mortuary, training for staff on new policies and procedures, and the development of systems for regular monitoring and audit.

The inquiry further recommends that there should be a review across Sydney West Area Health Service to ensure that the recommendations of the inquiry are implemented and that standardised policies and procedures are in place. Finally, the report recognises it is likely that some of these issues will apply in other area health services and therefore the recommendations should be provided to NSW Health for consideration as part of the broader statewide review of existing policies to ensure that best practice standards are being met. I can advise the House that I will be asking the area health service to implement all the inquiry's recommendations.

The investigation report will be provided to the Health Care Complaints Commission. The findings of the report will also be provided to the New South Wales Maternal and Perinatal Committee, which is overseeing the statewide review of the management and guidelines for the management of stillbirths. I again express my sincere sympathies to the family regarding this tragic event. I also stress again the importance of respecting the wishes of families in such circumstances.

BATTERY CAGE SIZE STANDARDS

The Hon. DUNCAN GAY: My question is directed to the Minister for Primary Industries. Is the Minister aware of widespread concerns among New South Wales egg producers about the issue of cages? Will the Minister inform the House what he intends to do and when he intends to proceed?

The Hon. IAN MACDONALD: I thank the Deputy Leader of the Opposition for his question.

The Hon. John Della Bosca: Was that a dorothy dixer?

The Hon. IAN MACDONALD: I would not admit to it even if it were. We have released to industry a projected regulation that it has had to consider over time. As the Deputy Leader of the Opposition will be aware, the national decision to expand cage sizes was taken some years ago at the Primary Industries Ministerial Council. We have an obligation under that framework to introduce the new cage sizes by 1 January 2008. The time for industry stakeholder viewing of, and comment on, the regulation that I have circulated will end fairly soon. I intend to have the regulation implemented later this year so that everyone is clear that we will be adhering to the national framework.

The Hon. Duncan Gay: What does "later this year" mean?

The Hon. IAN MACDONALD: We will deal with it in the spring session of Parliament.

The Hon. Duncan Gay: Will there be help?

The Hon. IAN MACDONALD: I am glad that the Deputy Leader of the Opposition has raised the issue of structural adjustment. I have twice put that proposal to the Primary Industries Ministerial Council—the first time when it was chaired by the former Federal Minister. The council supported the proposal to look at options, including a levy, to help growers to move to the new standards. The proposal was subsequently withdrawn following discussions with industry. I put it to the new Minister, Peter McGauran, again recently. He met me in my office in February this year and we discussed the matter. However, I have not had any further confirmation from him that the Federal Government intends to proceed down this course.

At this stage no national adjustment package is proposed but I will not cease in my endeavours to put a national framework in place. It is important that the industry works within a national framework and not on a State basis. That is the situation at the moment. We will progress the matter towards the end of the year. The code will be implemented on 1 January 2008. However, many growers have already adopted the new standard and implemented the new national code because they have had a long lead time in which to assess their requirements.

BRUCE BURRELL CONVICTION

Reverend the Hon. FRED NILE: My question is directed to the Minister for Justice. Is it a fact that Bruce Burrell has been found guilty of the murder of Kerry Whelan and will be sentenced to a term of imprisonment? Is it also a fact that, despite extensive police searches, Mrs Whelan's body has not been located? What action is the Government taking to find Mrs Whelan's body so that the family can put this matter to rest with finality? Will the Minister withdraw all privileges from Bruce Burrell in prison—cigarettes, beer, visitors and so on—until he directly or indirectly provides the details of the location of Mrs Whelan's body?

The Hon. TONY KELLY: I think the question is more appropriate for the Minister for Police because investigation of crimes is a matter for the police. In relation to the prisoner's stay in prisons, for which I am the responsible Minister, the operations of prisons is a matter for the commissioner, who I am sure will accommodate him appropriately.

PUBLIC SECTOR SPENDING AND SAVINGS

The Hon. PETER PRIMROSE: My question is addressed to the Treasurer. Will he update the House about alternative proposals for public sector spending and savings?

The Hon. MICHAEL COSTA: Yesterday the Leader of the Opposition outlined his budget response. In that response he made unfunded spending commitments, which he costed at $769 million. When one includes

the Opposition's unfunded WorkCover commitments, the figure goes up to somewhere in the order of $890 million. To justify his spending promises, when asked how he was going to fund it, the Leader of the Opposition pointed to government advertising. In 2004-05 government advertising accounted for somewhere in the order of $87 million. Yesterday the Leader of the Opposition gave a commitment of nearly $890 million and a savings measure to meet that of $87 million. Clearly those numbers do not add up and it does not make sense. If that was not bad enough, this morning on 2GB the Leader of the Opposition was asked the obvious question, the one we all want to know: How will he fund all his commitments?

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

The Hon. MICHAEL COSTA: He was asked how he was going to achieve the saving measures to fund his promises. He said, "We can achieve significant reductions in the number of bureaucrats. We are talking of a couple of billion dollars."

SYDNEY CENTRAL BUSINESS DISTRICT CYCLEWAYS

Ms LEE RHIANNON: My question is directed to the Minister for Roads. Will the Minister confirm that he is scrapping the only bicycle lanes in the Sydney central business district as part of a plan to ease problems for car users created by the cross city tunnel project? Considering the consent conditions of the Minister for Planning for the cross city tunnel require lanes be constructed but do not spell out the need for the bicycle paths to be retained, will the Minister make sure that both bicycle paths and bus lanes accompanying the Lane Cove tunnel project are not subject to the same fate in the future?

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

The Hon. ERIC ROOZENDAAL: As honourable members are aware, the Government has announced that it will be pursuing 13 road changes to improve traffic flows in and around the city and central business district. The Government is doing that to ensure clear traffic flows in the city, and it may well involve the removal of part of a cycle lane on the eastern side of William Street heading east towards Kings Cross to allow better access at Palmer Street and facilitate better flows of traffic.

In relation to the Lane Cove tunnel, a cycle lane and a bus lane are proposed on Epping Road. The Government is looking at those issues, in conjunction with the Lane Cove operators. It is very important to realise that the Lane Cove tunnel will be the missing link in the orbital network and is something for which the local community in that area has campaigned for more than a decade. People in the area have made suggestions, including the Mayor of Lane Cove, Councillor Longbottom, to review the original plan for Epping Road and its service roads. Because the Lane Cove tunnel is such a key piece of infrastructure that links onto the expanded Gore Hill freeway, the Government needs to carefully plan how the project is integrated into the road network. Not long ago I inspected the Lane Cove tunnel and the Gore Hill freeway and a large part of the cycleway is already complete. The Government will be looking at that issue.

DEPARTMENT OF AGEING, DISABILITY AND HOME CARE EMPLOYEE MISCONDUCT ALLEGATIONS

The Hon. JOHN RYAN: My question is directed to the Minister for Disability Services. Did the accommodation and respite branch of the Department of Ageing, Disability and Home Care make a written request for $76,000 to fund a review of critical incidents of employee misconduct? Did its submission refer to a number of serious incidents in November and December 2005 that included two separate incidents of sexual assault, an employee found asleep in an unlocked group home housing clients with risk behaviours, a group home client with a vaginal tear and redness due to possible rough handling, an employee alleged to have urinated in a colleague's coffee cup, a group home client with an ulcerated leg requiring hospitalisation, and an employee of a large resident centre found under the influence of alcohol in a shopping centre while on duty for just two months? Was that request approved? If a report was produced, when does the Minister propose to tell the disability community about the problems of misconduct by employees of the Department of Ageing, Disability and Home Care?

The Hon. JOHN DELLA BOSCA: The honourable member has read a litany of allegations onto the record regarding employees of the Department of Ageing, Disability and Home Care. Obviously they relate to some serious matters. I will provide him with a detailed answer as soon as practicable.

PUBLIC SECTOR SPENDING AND SAVINGS

The Hon. PETER PRIMROSE: My question is addressed to the Treasurer. Will he provide the House with further information about alternative proposals for public sector spending and savings?

The Hon. MICHAEL COSTA: This morning on radio 2GB the Leader of the Opposition claimed that he would fund his $20 billion unfunded promises with a strategy to take a couple of billion dollars out of the New South Wales budget by getting rid of bureaucrats. The Opposition should listen because the numbers are very rubbery. As I said, the Opposition's unfunded commitments are more than $20 billion. The economic audit established there were 290,000 full-time positions in New South Wales.

The Hon. Duncan Gay: Look at this.

The Hon. MICHAEL COSTA: This is very embarrassing for Opposition members but they should listen to the numbers. If the estimated number of frontline positions of 255 are excluded—290 equivalent full-time positions and 255 identified essential workers or supporting essential workers, and the Government has committed to remove 5,000 and the Leader of the Opposition is after $2 billion worth of cuts—what does that mean? It leaves 39,800 workers to get 27,000 cuts in the public sector. It does not make sense. It does not add up. The Opposition is embarrassed. It is dealing with a leader who cannot add up and has the greatest rubbery figures in the history of economic management.

But it gets worse, because the member for Gosford, Chris Hartcher, said he would exclude regional and rural workers. So, from the pool of 39,800 remaining workers the Coalition will get rid of 27,000 people, excluding regional and rural workers. But there is more to this! It is all going to be done by natural attrition! So we have from the Coalition unfunded promises, commitments to fund those promises through reductions in staff, and a pool of 39,000 from which it will get rid of 27,000 people. It says that the reduction will not be made by forced redundancies, and regional and rural New South Wales workers will not be touched. What an absolute joke! Those rubbery figures will be quoted all over the country as a new low in the costing of policies. We are only 10 months from the election, so we can imagine what will happen with the $20 billion worth of unfunded promises. The Coalition will have to explain how it will achieve a cut of 27,000 from 39,800 workers by natural attrition.

The PRESIDENT: Order! I call the Hon. Dr Arthur Chesterfield-Evans to order for the first time.

The Hon. MICHAEL COSTA: The funding commitments are a joke. They will never be met. If they were ever met, it would put the New South Wales triple-A credit rating at risk.

BLACKTOWN HOSPITAL STILLBORN BABY CARE PROCEDURES

The Hon. Dr PETER WONG: My question without notice is directed to the Minister for Health, who informed the House earlier today, in response to a question, that the body of a stillborn baby was removed from hospital mistakenly with other clinical material. Can the Minister inform the House whether the stillborn baby and other clinical materials were used for autopsy and/or other pathology purposes? What does the Minister mean by "other clinical material"? What kinds of tissue were they?

The Hon. JOHN HATZISTERGOS: The comments I made speak for themselves. In relation to the issue of autopsy, I also—as the member would know if he had paid attention—directly answered that question in my response.

JACK EVANS BOAT HARBOUR, TWEED HEADS

The Hon. JENNIFER GARDINER: I direct my question without notice to the Minister for Lands. Is the Government proposing to fill in part of the Jack Evans Boat Harbour at Tweed Heads? Is there any proposal by the Department of Lands to sell or lease any part of the foreshore Crown land at the boat harbour for commercial development? What is the exact status of that land? Is the Minister aware of the environmental threat posed by commercial development in that locality? Is he aware also of the widespread community opposition to redevelopment plans currently circulating in Tweed Heads? Will the Minister ensure that the community opposition is heeded and provide an opportunity for community members to express their alternative views about how the area might be improved as a public amenity with plenty of green space? Will the Minister stop any inappropriate development of this peaceful foreshore in the heart of Tweed Heads?

The Hon. TONY KELLY: The Tweed Heads business community has put forward some proposals for redevelopment of that particular area in Tweed Heads, and the Department of Lands is participating in those because a lot of it is around the Jack Evans Boat Harbour. The council has been involved. I understand there is a plan available.

The Hon. Duncan Gay: There is no council up there any more. You blokes run the joint.

The Hon. TONY KELLY: I acknowledge that interjection from someone who should know more about local government than he obviously does. The honourable member just said there was "no council up there any more". The Local Government Act makes it clear that there is still a council there—it is not run by councillors; it is run by an administrator. The Local Government Act 1993 is still in place, and it allows for the council to continue as an authority. There has been no change to the council authority; it is running as a council. The Council of the City of Tweed Heads is still there. The councillors were dismissed and the council is run by an administrator.

PERISHER RANGE RESORTS MASTERPLAN AND SKI LODGE BEDS

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I direct my question to the Minister for Finance, representing the Minister for the Environment. Is the Minister aware of the controversy over ski lodge bed arrangements proposed by the National Parks and Wildlife Service in Perisher, Smiggins and Guthega, and how is the Minister addressing this issue? Is the Minister aware that only 2 per cent of clubs and commercial lodges will either bid for the new beds or apply for the lease extensions because the remainder have decided that the terms are so unreasonable that they will wait for a change of government if this Government will not make drastic changes to the lease conditions? What is the Minister doing to address this issue? Is the Minister aware of the recommendations of the commission of inquiry into beds in the snowfields and aware of a press release from the Deputy Premier of 27 May 1999 committing to implement the findings of the inquiry? How is the National Parks and Wildlife Service's current strategy consistent with the findings of the inquiry and the Government's undertakings?

The Hon. JOHN DELLA BOSCA: I am aware of elements of the controversy in relation to ski lodge bed arrangements. I think the member would concede that these matters require a delicate balance between the recreational pursuits and interests of the tourist industry in the Snowy Mountains region and the environmental concerns that people have traditionally, and quite properly, held about the conduct of those sports and activities within the boundaries of a national park. Of course, this has led to a lot of consideration about the applicable lease conditions. The honourable member's question assumes a different view can be taken in relation to club-based accommodation as distinct from commercial accommodation. That element of the question is interesting and perhaps important. I will ask the Minister to provide me with a response as soon as practicable, and when received I will make it available to the member and the House.

BATHURST, ORANGE AND BLOOMFIELD HOSPITALS REDEVELOPMENT

The Hon. GREG PEARCE: I direct my question to the Treasurer. Is he aware that in last year's budget documents Treasury treated the capital works undertaken by the Department of Health around Orange as a single project, and it was described as the "Bathurst/Orange/Bloomfield Hospitals Redevelopment", to be completed in 2010 at a cost of $236 million? Why are the same works in the Treasurer's budget of this week treated as three separate projects, with all works to be completed in 2011 at a cost of $296.7 million—that is, a delay of one year and a cost overrun of $60 million? Further, why did the Treasurer announce the capital works at Bloomfield Hospital as a new project for the purposes of his State Infrastructure Strategy announced last week and in his budget delivered this week, when the project is in fact a work in progress? Is the change to the Treasurer's reporting intended to disguise the delays and cost overruns, and how can anyone rely on the figures in this year's State budget?

The Hon. MICHAEL COSTA: I did not realise that we were in budget estimates! However, I am happy to respond to a—

The Hon. Greg Pearce: Don't debate the question.

The Hon. MICHAEL COSTA: I am certainly happy to respond to a question about capital works. The Government has announced in this year's budget, and in its State Infrastructure Strategy, record and unprecedented capital works. Those capital works provide the basis for going forward in New South Wales and

also provide a comprehensive strategy to stimulate the New South Wales economy. Our capital works program has been estimated by some sources as being able to provide 130,000 jobs—a record! The strategy provides detail on all the projects that we are proposing to go ahead with. I make the point that those projects are locked in, supported by three funding sources. One, of course, is our own revenue. The second is an unprecedented debt financing strategy. The third is the involvement of the private sector. Many of the projects in the capital works program are programs—

The Hon. John Ryan: Borrowing and more borrowing.

The Hon. MICHAEL COSTA: I will not respond to that interjection. The Coalition is very embarrassed because it has had to jettison some of these projects as part of its election campaign. The question that must be asked of the Coalition is: What projects will it cut to fund its $20 billion of unfunded promises? As I said earlier, the Coalition has committed itself to cutting 27,000 public servants out of a pool of 39,000, which is highly unbelievable, and it claims that will be done by natural attrition. Yesterday the Coalition committed almost $1 billion—at least $900 million—to its unfunded promises, and identified government advertising of around $87 million—

The Hon. Greg Pearce: Point of order: My point of order is relevance. The Minister is two-thirds of the way through the answer to my very, very specific question—

The Hon. Peter Primrose: Point of order.

The Hon. Greg Pearce: —in relation to a number of projects, and he is talking about Coalition policies.

The PRESIDENT: Order! The Hon. Greg Pearce will resume his seat. When a point of order is taken on a point of order, the second point of order is decided first. The Hon. Peter Primrose has the call.

The Hon. Peter Primrose: The standing orders do not allow a point of order to taken on relevance. I would ask you, again, to remind the honourable member of that.

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

The Hon. MICHAEL COSTA: Capital works are an important part of the responsibilities of State Government. As I pointed out in my Budget Speech, this year alone we are spending nearly $10 billion. I also contrasted the fact that the Commonwealth is spending less than $6 billion on capital works nationally.

The Hon. Tony Kelly: Half the surplus.

The Hon. MICHAEL COSTA: The honourable member mentioned the surplus. In the last five years the Commonwealth Government has had a windfall out of the commodities boom of $38.5 billion, yet it has left the nation with a negative wealth of $57 billion. It is quite an embarrassing legacy for Mr Costello, who somehow purports to be a Treasurer in the Paul Keating mode. He has no chance of doing the historic things that Paul Keating did in freeing up the national economy and setting it up for the boom we are experiencing across a range of sectors. Orange City councillors met with the Minister for Health and they are very happy with the progress.

CORRECTIVE SERVICES BUDGET

The Hon. AMANDA FAZIO: My question without notice is directed to the Minister for Justice. Will the Minister explain how Corrective Services has benefited from the budget handed down by our colleague the Treasurer?

The Hon. TONY KELLY: I thank the honourable member for her question, and I should particularly thank the Treasurer for the budget, because safety and security are the key goals of our Corrective Services budget. The Government has allocated $924.8 million to help deliver the expansion and upgrading of New South Wales gaols and the rehabilitation of inmates, representing an increase in recurrent spending of almost $33 million. A total of $128.1 million will be spent on capital works, including the $57 million on the completion of the new Western Region Centre at Wellington. Recently I visited the construction site at Wellington and noted that progress of the work is very impressive; it is on time and on budget. The centre is due

to open in the first part of 2007. Local businesses have already reported increased sales. I noticed some comments from Wellington residents in the local paper. Mr Ken Blackburn said he thinks it is the best thing that has ever happened to the town because it is coming to life after five years.

Prime local news in Orange this week reported that Wellington Shire Council had received a development application from Woolworths to open an additional supermarket in the town, all because of the expenditure of government money in country towns. The private sector is now investing in country towns, and that will create additional jobs. It is a vote of confidence from the private sector and a boost to the local economy. Last week representatives of the department set up information booths at the civic centre to advise people on local job opportunities that will be available at the facility. I understand that of the order of 150 people made preliminary inquiries about jobs at the corrections centre.

Work worth $15 million will continue on the 1,000-bed program we announced in May 2005, which involves the creation of 250 beds at Lithgow and Cessnock gaols and the construction of a new 500-bed gaol in the Illawarra-South Coast area. We are preparing for the future, but it is wrong to suggest that our prisons are overcrowded. As usual, the shadow Minister is misinformed. The guy is nothing but a bumbling, walking mistake. His spectacular stuff-up at the joint Commonwealth-State counterterrorism exercise in Sydney last month exposed him as the weakest link on a mediocre Opposition front bench.

The Hon. Duncan Gay: Point of order: I ask the Minister to retract the statement that he is a "bumbling, walking mistake". The language is unparliamentary and an unfortunate statement by the Minister.

The Hon. TONY KELLY: This man—

The PRESIDENT: Order! Is the Minister speaking to the point of order?

The Hon. TONY KELLY: Yes. This man made a massive mistake. He accused the Government of using a counterterrorism exercise at the Opera House last month as spin when, in fact, the Federal Minister was in attendance, and that countered the argument of the shadow Minister. He made a massive, bumbling mistake.

The PRESIDENT: Order! There is no point of order. The language is not unparliamentary.

The Hon. TONY KELLY: As I have described, the future addition of 1,500 beds is designed to meet the forecast needs of the prison population over the next four to five years. Of the 9,200 inmates in the system, the Department of Corrective Services currently has approximately 9,100 in custody in its centres. [*Time expired.*]

WOOD SUPPLY AGREEMENTS

Mr IAN COHEN: My question is addressed to the Minister for Natural Resources, and Minister for Primary Industries. Has the Minister granted a 20-year wood supply agreement over State forests in central New South Wales, areas that have never had a regional assessment or any systematic conservation assessment? If so, how can he justify the impact this will have on threatened species and their habitats?

The Hon. IAN MACDONALD: Yes, we have granted 20-year wood supply agreements over some forests in central New South Wales as part of the Brigalow decision, which is what I think Mr Ian Cohen is referring to. Recently three wood supply agreements were signed, one with the Pauls family at Gunnedah and Baradine, one with firms in the south of the State, and another with the Lacey family at Gulargambone. The decision, worked out over a long period with stakeholders, was to conserve around 352,000 hectares of State forest as part of a larger Brigalow Park. Part of that decision was that 20-year wood supply agreements would be entered into with companies in the area to maintain a viable, strong and sustainable cypress pine industry. I do not back away from that.

The question asked by Mr Ian Cohen is an example of the way in which he overstates many issues. This is a classic example of 352,000 hectares of the Brigalow and other forests in the area forming a park that has been locked away from the industry, while the other part of the forest has been made available for companies signed up to the 20-year wood supply agreements. Yet Mr Ian Cohen continues to complain about the process. I thought the Greens would hail the decision on the Brigalow rather than come to this Chamber with another narky, negative and overstated position.

QUEANBEYAN OFFICE BLOCK CONSTRUCTION COST

The Hon. MELINDA PAVEY: My question without notice is directed to the Minister for Finance. Can he explain the reasons for the massive 100 per cent increase in the cost of the Queanbeyan office block in the budget from $19 million to almost $40 million and why construction has been delayed from 2007 until 2009?

The Hon. JOHN DELLA BOSCA: I will be pleased to obtain a much more detailed response for the Hon. Melinda Pavey than I am about to give, and I undertake to do that.

The Hon. John Ryan: Are there no answers today? All the questions have been taken on notice.

The Hon. Greg Pearce: Had a tough week, have we?

The Hon. JOHN DELLA BOSCA: No, not at all: We have had a very good week. The answer I was attempting to give to the Hon. Melinda Pavey before I was interrupted by yet another unruly interjection by the Hon. John Ryan—

The Hon. Melinda Pavey: Just give me a general idea why it has doubled.

The Hon. JOHN DELLA BOSCA: The Hon. Melinda Pavey has asked for a general idea, and I will give her a general idea. This is a much bigger project than was originally envisaged. It has been a very big success. We will be able to locate many more government agencies in the office block than was originally envisaged as well as, potentially, some private clients.

The Hon. Rick Colless: It is poor planning.

The Hon. JOHN DELLA BOSCA: No, it is very flexible planning. The people of Queanbeyan, who are very well represented in the other place by the honourable member for Monaro, Steve Whan—and will be for a very long time in the future—will have delivered to them a top quality public building in Queanbeyan that will not only provide excellent access to various government services but also be a great asset to the city. The bottom line with respect to the Hon. Melinda Pavey's request for a general answer is that the project is much, much bigger than was originally envisaged. It will be a better project, and perhaps because of that—we will finalise the planning and I will provide that material in the detailed response to the question—part of the project's costs will be pushed into the next budget year.

NON-GOVERNMENT ORGANISATIONS DISABILITY AND COMMUNITY SERVICES BUDGET FUNDING

The Hon. KAYEE GRIFFIN: My question is addressed to the Minister for Ageing, and Minister for Disability Services. Will he advise of the Government's commitment to the viability of non-government organisations?

[*Interruption*]

The Hon. JOHN DELLA BOSCA: I find the interjections from the Opposition really amazing. However, in the Budget handed down by the Treasurer last Tuesday, the Government provided 3.3 per cent indexation for disability and community services funded by the New South Wales Government. This indexation will secure the viability of essential services including respite care, day programs, therapy and supported accommodation. The wage bill for non-government organisations is, typically, approximately 80 per cent of their total budgets. The Iemma Government's 3.3 per cent indexation rate for the total budget will cover the 3.5 per cent wage increase that has been granted to employees who are covered by the Social and Community Service Award, which is better known as the SACS Award.

The New South Wales Government is also committed to providing 3.3 per cent indexation to community services programs that are funded jointly with the Commonwealth Government, subject to the Commonwealth's agreement to match this rate. Today's *Sydney Morning Herald* wrongly claims—yet another indication that people cannot necessarily believe everything they read in the *Sydney Morning Herald*, as august a journal as it is—that the New South Wales Government will fund this rate only if the Commonwealth matches it. The reality is that the New South Wales Government needs the Commonwealth's approval to pay 3.3 per cent

indexation. Funding agreements between the New South Wales Government and the Commonwealth Government have set matching rates. For example, the Home and Community Care [HACC] Program is funded 60 per cent by the Commonwealth and 40 per cent by New South Wales. The Commonwealth Government sets the indexation rate for home and community care, and that is currently 2.1 per cent.

The New South Wales Government is prepared to use the program's growth funds to provide 3.3 per cent indexation. This has been made clear to successive Federal Ministers. But as I have previously stated, the Home and Community Care Agreement is a Commonwealth agreement and it is very clear that we cannot spend one cent of growth funding without the agreement of the Commonwealth Minister. The punch line is that in 2000 the New South Wales Government proposed additional indexation in the 2002-03 HACC plan to meet increasing costs associated with the Social and Community Services Award. At that time, the Commonwealth Minister refused to sign the plan until that condition was removed. It was the specific reason for her refusal to sign the plan. As a result, the 2002-03 Home and Community Care Plan was not signed until August 2003.

Honourable members heard me correctly: the HACC plan was not signed by the Commonwealth Minister until a month after the relevant financial year had passed. That means that not a cent of the growth was spent that year. This was, and it remains, an outrageous situation. The New South Wales Government accepts that 3.3 per cent is a reasonable indexation rate for community and disability services. I have written to the Commonwealth Minister for Ageing, Mr Santo Santoro, asking him for his approval to pay that rate. Without approval, welfare organisations, charities and other non-government organisations will not receive funding under the Commonwealth-State funded programs, with the result that they may have to cut their services.

The New South Wales Government values and respects the non-government service providers, accepts the capacity of the industrial umpire to make determinations, and accepts that there should be appropriate reward for people who are doing hard work in the community sector. Unfortunately the Commonwealth colleagues of the New South Wales Opposition do not similarly respect community service workers and do not similarly respect the organisations for which those employees work. [*Time expired.*]

NARDY HOUSE RESPITE CARE FACILITY, QUAMMA

Ms SYLVIA HALE: I direct my question to the Minister for Disability Services. Given that a dispute over operational funding has kept the Nardy House respite care facility at Quaama from ever opening, despite a great demand in the Bega area for high-need respite care services, will the Government commit to providing the $980,000 per year in recurrent funding that is required to operate the facility? Despite the Government initially committing to recurrent funding, why has the Department of Ageing, Disability and Home Care [DADHC] offered funding only on a single grant basis for clients with lesser needs rather than the recurrent funding for profoundly disabled clients, for whom Nardy House was designed to provide accommodation? Does the Government acknowledge that the $400,000 that was supposedly offered by DADHC to Nardy House is less than half that required to enable the facility to operate?

The Hon. JOHN DELLA BOSCA: I was wondering when Ms Sylvia Hale would pick up on this issue, because even the Hon. John Ryan had not touched it with a barge pole for some months. The New South Wales Government wants to see Nardy House open as soon as possible. Funds are available immediately. On 18 August 2005 I appointed Mr Dougie Herd, the Director of the Disability Council, to help to broker a solution to the Nardy House problem, and Mr Herd prepared a detailed report after consultation with all stakeholders. I accepted the findings of that independent report and I have already announced that the Government will implement its recommendations. In fact, I have announced that several times.

Since October last year Mr Herd and senior departmental officers have met numerous times with the Nardy House committee in an endeavour to reach agreement and have the facility open for service, and again I confirmed the Government's offer of recurrent funding to enable the facility to open prior to last Christmas. Unfortunately the Nardy House committee stated that it was unwilling to proceed with the respite co-ordination model and formally rejected the Government's offer of funding. The Government again offered to fund a respite co-ordination model and remains keen to work with the Nardy House committee to develop the model. The model allows the Nardy House committee to immediately employ a co-ordinator and provide administrative support. It also allows the committee to attract further resources to enhance services by negotiating with other respite service providers to purchase respite at the facility.

The combined package is worth in excess of $400,000 per annum and will ensure that services at Nardy House will be fully utilised. Should the Nardy House committee not accept that offer, the Government will proceed with other options so that families in Bega Valley will be able to receive the respite services that they require.

MAITLAND HUNTER RIVER BRIDGE

The Hon. ROBYN PARKER: In directing my question to the Minister for Roads, I point out that his Government has already spent $1.8 million on planning for the third Hunter River crossing at Maitland, with a further allocation of $6 million in this week's budget. Given that there is no estimated starting date, completion date, or forward expenditure, how can the people of Maitland have confidence that this bridge will be a reality? Are the bridge and the Minister's 2003 election promise of $30 million not another election stunt?

The Hon. ERIC ROOZENDAAL: I am pleased the Hon. Robyn Parker has raised election stunts. I listened intently to the Leader of the Opposition in the other place, the honourable member for Vaucluse, explaining how he will scrap all government advertising. As an organisation that is committed to road safety and campaigns on road safety, the Roads and Traffic Authority spends a considerable amount of money each year advertising road safety.

The Hon. Melinda Pavey: How much, Eric?

The Hon. ERIC ROOZENDAAL: It spends $14 million as a matter of fact. That is one item that apparently will be scrapped. The Hon. Robyn Parker wants to talk about election stunts; the honourable member for Vaucluse plans to scrap advertising against speeding.

The Hon. Robyn Parker: Point of order: The Minister has failed to answer the question. He was asked a specific question about the third Hunter River crossing. I ask you to direct him to answer the question.

The PRESIDENT: Order! The Minister may make general comments when answering the question, but his answer must be relevant to the question.

The Hon. ERIC ROOZENDAAL: I am happy to talk about the budget. The New South Wales Government has increased road spending in the Hunter region to $247.2 million in the 2006-07 budget, that is an extra $70 million to upgrade and maintain roads in the Hunter region. I know the Hon. Robyn Parker does not want to hear about all the money the Government is spending in the Hunter, but she will have to listen now. Key projects in the budget for the Hunter region include $9 million for the completion of the Five Islands Road 1.7 kilometre duplication, which involves widening—

The Hon. Robyn Parker: That is not what I asked about.

The Hon. ERIC ROOZENDAAL: It is a great project, with considerable geotechnical—

The Hon. Duncan Gay: Point of order: My point of order is on relevance. The question specifically related to $1.8 million for the third Hunter River crossing at Maitland. The huge number of people on the Minister's staff have provided him with plenty of information. Can it be taken from his answer that he does not want to answer the question?

The PRESIDENT: Order! The Minister was only part way through his answer. I will rule Ministers out of order if they give totally irrelevant answers or attempt to abuse the Opposition while answering questions. However, the Minister may make general comment before getting to the specifics of the question asked of him.

The Hon. ERIC ROOZENDAAL: In the budget, $67.5 million has been allocated to upgrade the Pacific Highway to dual carriageway in the Hunter area. Key Pacific Highway initiatives in the budget for the Hunter include $40 million to start sections two and three between Karuah and Bulahdelah; $10 million to complete section one between Karuah and Bulahdelah; $10 million to complete the Bundacree Creek to Possum Brush section near Nabiac; $6 million for planning and property acquisition for the Bulahdelah bypass; $500,000 for the planning of Failford Road to Tritton Road; and $1 million to plan the upgrade between the F3 and Raymond Terrace.

The budget will allow major projects to move forward in the Hunter, such as the upgrade of Nelson Bay Road, for which $11.5 million has been allocated. Major projects include $6 million for stage two of the dual carriageway between Bobs Farm and Anna Bay. The Government has allocated $6 million to continue planning and to start preliminary construction for the third crossing of the Hunter River at Maitland.

WESTERN SYDNEY ROADS INVESTMENT

The Hon. HENRY TSANG: My question is addressed to the Minister for Roads. Will the Minister provide the House with further information on the Government's investment in Western Sydney roads?

The Hon. ERIC ROOZENDAAL: I commend the Hon. Henry Tsang for his interest in this important matter. Since 1995 the New South Wales Labor Government has invested more than $26.5 billion in roads and more than $3.8 billion on roads in Western Sydney.

The Hon. Jennifer Gardiner: What have you done with the money?

The Hon. ERIC ROOZENDAAL: That is a very good question asked by the Hon. Jennifer Gardiner. Since she is so interested, I advise her that $3.8 billion has been spent on roads in Western Sydney. I know she does not travel past Glebe, but if she were to take a wrong turn and go further west she would realise that about two million Sydneysiders call Western Sydney home. As I mentioned in the House on Tuesday, more than $404.5 million has been allocated in this year's record Roads budget to move forward on major projects in Western Sydney, projects such as Windsor Road, the Great Western Highway, The Horsley Drive, Hoxton Park Road, and Narellan Road.

Other ongoing projects such as the Cowpasture Road, Camden Valley Way and Hoxton Park Road widenings have already received an investment of $170 million, and will receive further funding. More than $7.2 million has been allocated to the Cowpasture Road project, continuing its upgrade from a two-lane road to a four-lane road, linking The Horsley Drive at Wetherill Park with Camden Valley Way at Leppington. The upgrade of Cowpasture Road will provide improved access for local motorists as well as a safer road environment for all road users by linking new residential areas and employment zones.

Cowpasture Road also forms an important link to the Westlink M7 with an interchange near Hoxton Park Road. In the budget $5 million has been provided to complete the widening between Main Street and Hoxton Park Road, $1 million has been allocated to plan the widening from Westlink M7 to North Liverpool Road, and a further $1.2 million will be invested to complete the noise walls between Mount Street and Elizabeth Drive. The Iemma Labor Government's budget keeps Western Sydney moving. The four-lane upgrade of Hoxton Park Road, the main connection between Cowpasture Road and the Hume Highway at Liverpool, will reduce traffic congestion. The upgrade caters for an expected increase in traffic volume.

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

The Hon. ERIC ROOZENDAAL: In addition, $2 million has been allocated for planning and preconstruction works for widening between Banks Road and Cowpasture Road. At the same time, $3 million has been put towards the planning and acquisition of property for upgrading The Horsley Drive between Ferrers Road and Westlink M7.

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

The Hon. ERIC ROOZENDAAL: I am deeply shocked by the contempt the Opposition is showing for the people of Western Sydney, I am very upset about that. While the Government's commitment to Western Sydney roads is most prominently seen in its major budget investments—such as the $125 million to complete the construction of the north-west transitway, or the $113 million to finish the Windsor Road upgrade—it is important to note other significant local projects in relation to which hardworking Labor members have been able to find solutions. Take for example the hardworking member for Mulgoa, my ministerial colleague Di Beamer. Local residents and motorists fought hard to get improvements for Mamre Road.

The Hon. Greg Pearce: Point of order: I wonder whether, before the Minister finishes his answer, he could give us that line again about keeping Sydney moving. It would be really good to have that.

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

The Hon. ERIC ROOZENDAAL: Di Beamer, local residents, and motorists fought hard to get improvements for Mamre Road, and the Government listened; $500,000 has been allocated for planning and preconstruction to duplicate the Mamre Road overpass. Geoff Corrigan fought hard to get traffic lights at the intersection of Camden Valley Road and Raby Road at Catherine Fields. [*Time expired.*]

SAME-SEX MARRIAGE LEGISLATION

Reverend the Hon. FRED NILE: I address my question to the Leader of the Government in his own capacity and as representing the Premier. Is the Government aware that the Federal Government has recently overruled the attempt by the Australian Capital Territory to legalise so-called same-sex civil unions, virtually same-sex marriages? Does the Government support legalising same-sex marriages in New South Wales? Will the Minister give an absolute assurance to the people of New South Wales that the Government will continue to protect the traditional institution of heterosexual marriage and the traditional family unit headed by a mother and a father?

The Hon. JOHN DELLA BOSCA: I thank Reverend the Hon. Fred Nile for doing me the honour of asking me a question in my own capacity, as well as representing the Premier. I remind him of the situation in regard to the state of the Constitution and the laws in relation to marriage. They are the province of the Commonwealth. Members of this Chamber can have whatever view they like about marriage and related matters, but the laws of the land in respect to marriage and the dissolution of marriage are determined by the Commonwealth. That has been the case since Federation, although the Hon. Greg Pearce may correct me if I am wrong. It has certainly been the case since the passage of the Family Law Act in the 1970s.

Since then, all marriage matters have resided with the Commonwealth, and this Government agrees with that position. Obviously the circumstances in the Australian Capital Territory are different; the constitutional arrangements in respect of the relationship between the Australian Capital Territory and the Commonwealth are different from those of the New South Wales Government and any other State—as distinct from the Territories.

From time to time there may be debate about the recognition of other forms of union, whether they are gay or de facto marriages and the like. This Parliament forms a view on those matters on a case-by-case basis. Generally speaking, in all the time I have been a member of this Chamber, superannuation and other issues have been matters on which this Government has formed a view, even if those views were not supported by Reverend the Hon. Fred Nile, Opposition members, and others. They are the only matters on which this Government has formed a view on a case-by-case basis. I will leave it to the Premier to provide a formal response to the remaining aspects of Reverend the Hon. Fred Nile's question regarding this Government's intentions with regard to civil unions. I am sure honourable members will be satisfied with the answer.

GREATER SOUTHERN AREA HEALTH SERVICE FINANCIAL OBLIGATIONS

The Hon. RICK COLLESS: My question without notice is directed to the Minister for Health. Is he aware that the Greater Southern Area Health Service is so cash strapped that Yass post office has cut off its account? How can the community rely on this area health service when the Minister and his predecessor, Morris Iemma, starved the service of cash? How can he ensure the safety of patients when the service cannot even pay its post office bill?

The Hon. JOHN HATZISTERGOS: The creditor situation of the Greater Southern Area Health Service has improved significantly from its position in the latter half of 2005. I previously announced that an external adviser had been appointed and an independent review of the area health service's financial position has been completed. Since that review was commenced a number of initiatives have been implemented, including the following. Priority was given to the payment of small local creditors and a daily creditor report is provided to the area health chief executive, the director of corporate services and the Department of Health summarising the creditor position. The credit call centre is staffed Monday to Friday from 9.00 a.m. to 5.00 p.m. to assist creditors. The chief executive issued a direction to all health facility managers outlining immediate action to be taken to strengthen accountability in procurement and payment practices across the area.

I am further advised that a number of processing issues with the implementation of a new financial management system have been addressed and invoices are now processed within acceptable benchmarks. The Greater Southern Area Health Service is finalising an activity and financial management plan for 2005-06 and onwards. This will ensure that the strategies identified and implemented will improve the area's financial performance. In addition, I am advised that area health service management meets on a weekly basis to ensure that this plan is implemented effectively. The area is in the process of consolidating all finance functions to further improve interactions with other parts of the supply chain and to further improve the accounts payment process.

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

PUBLIC HOUSING TENANTS WORK DISINCENTIVES

The Hon. TONY KELLY: On 3 May 2006 Reverend the Hon. Dr Gordon Moyes asked the Minister for Health, representing the Minister for Housing, a question without notice regarding public housing tenants work disincentives. The Minister for Housing provided the following response:

1) Yes. The report is too narrow to assess the Reshaping reforms as it is based on just one per cent of public housing tenants.

2 &3) Actual impacts will depend on a number of factors including the types of household income, household composition and the market rent of their property. When combined with the tax system and the withdrawal of family tax benefits, it is Commonwealth welfare policies that contribute to work disincentives for public housing tenants.

4) Issues around taxation and workforce disincentives relate to a range of Federal Government responsibilities, including Treasury and the Department of Employment and Workplace Relations.

JUVENILE JUSTICE STAFF COURT APPEARANCES

The Hon. TONY KELLY: On 4 May 2006 the Hon. Catherine Cusack asked me a question without notice regarding juvenile justice staff court appearances. The Minister for Community Services, and Minister for Youth, has provided the following response:

The Senior Children's Magistrate said that it was an "unwelcome consequence" of the division between the two jurisdictions of the Children's Court that the Department of Community Services only comparatively rarely makes an appearance in the criminal jurisdiction of that Court. This division was created by this Parliament almost two decades ago and has received support from governments of all political persuasions. Because of this division the Senior Children's Magistrate correctly noted that the Children (Protection and Parental Responsibility) Act 1997 specifically excludes the Department of Community Services from being required to attend the Children's Court in its criminal jurisdiction.

Despite this, it is the policy of the Department of Community Services that children and young people in the parental responsibility of the Minister should where possible be accompanied by a support person when appearing in the criminal jurisdiction of the Children's Court.

Juvenile justice officers have to, and do, undertake welfare tasks for children and young people before the Children's Court in its criminal jurisdiction. Where the line is to be drawn between these officers and those of the Department of Community Services is subject to provisions in legislation set out in a Memorandum of Understanding between the two agencies and is also subject to on-going discussions between the respective Directors-General.

DEPARTMENT OF AGEING, DISABILITY AND HOME CARE EMPLOYEE MISCONDUCT ALLEGATIONS

The Hon. JOHN DELLA BOSCA: Earlier in question time the Hon. John Ryan asked me about certain allegations relating to a series of matters under the control and management of the Department of Ageing, Disability and Home Care. The department treats all allegations seriously. Allegations of illegal conduct, such as those specified in the honourable member's question, are immediately reported to the police. In addition, when the police investigation is complete, the department commences an independent investigation.

In the past 18 months there have been a number of serious allegations in disability accommodation services. The department was concerned about this and it has already made a decision to conduct a comprehensive review of a sample of group homes. That review involves visiting each group home and measuring its performance against policies, procedures, legislation, and other relevant standards. That is in addition to, and separate from, existing quality assurance systems that are in place for all disability services. This special review is budgeted at $76,000. In my view—and I am sure in the view of all honourable members—this is money well spent.

BLACKTOWN HOSPITAL STILLBORN BABY CARE PROCEDURES

The Hon. JOHN HATZISTERGOS: Earlier in question time the Hon. Dr Peter Wong asked me a question relating to events at Blacktown Hospital. In a supplementary question he asked specifically whether the baby in question had undergone an autopsy. I sought further clarification and can advise that the report states there was no evidence that the baby underwent an autopsy.

MR SIMEON OPIT BAIL REFUSAL

The Hon. JOHN HATZISTERGOS: On Tuesday Ms Sylvia Hale asked me a question relating to the mental health system, and particularly about a person who was the subject of comment in the Supreme Court by Mr Justice Adams. I have been supplied with the following answer:

I can inform the honourable member of the following:

Mr Opit was held in custody from 7 March 2006 until 29 May 2006.

I am advised that he is now being treated for his mental illness in the community.

I am advised that the treating Psychiatric Registrar at the Metropolitan Remand and Reception Centre and the mental health nurse at Grafton Correctional Centre arranged referrals for follow-up following his release.

I am advised that the Psychiatric Registrar who treated Mr Opit at MRRC has received two letters of thanks for his service from Mr Opit's mother.

The NSW Government has diverted more than 3,900 people away from the criminal justice system since the establishment of the Court Diversion Program in 2003.

This program has now been expanded to 22 courts including the Children's Court at Cobham.

This is just one aspect of an increase in funding to support people with a mental illness in contact with the criminal justice system.

In 2004 the New South Wales Government established a community forensic health service.

The Premier last week announced an additional $6.5 million over the next the next five years recruiting specialist staff to assist mental health services to manage forensic patients.

Questions without notice concluded.

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Reports

The Hon. Peter Primrose, on behalf of the Chair, tabled the following reports:

Report No. 7/53, entitled "Proceedings of the 2nd National Conference of Parliamentary Oversight Committees of Anti-Corruption/Crime Bodies: 22-23 February 2006, Parliament House, Sydney", dated June 2006.

Report No. 8/53, entitled "Quarterly Examination of the Inspector of the Independent Commission Against Corruption, January-March 2006, incorporating edited transcripts of evidence", dated June 2006.

Ordered to be printed.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The President tabled, pursuant to the Independent Commission Against Corruption Act, a report entitled "Report on Cover-up of an Assault on an Inmate at Parramatta Correctional Centre", dated June 2006.

Ordered to be printed.

SNOWY HYDRO CORPORATISATION AMENDMENT (PARLIAMENTARY SCRUTINY OF SALE) BILL

Message received from the Legislative Assembly returning the bill without amendment.

[*The President left the chair at 1.06 p.m. The House resumed at 2.30 p.m.*]

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Ms LEE RHIANNON [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 the disallowance of Gaming Machines Amendment (Payment of Prize Money) Regulation 2006, be called on forthwith.

The Gaming Machines Amendment (Payment of Prize Money) Regulation 2006 is a kick in the teeth for problem gamblers. It is irresponsible and deserves to be disallowed. It is definitely an issue that must be debated urgently. We must bring on this debate today because this regulation is damaging problem gamblers on a daily basis. After today, the House is not scheduled to sit again until 29 August. In the almost 12 weeks between now and then, who knows how many gambling addicts will blow an extra $1,000 cash on the pokies as a direct result of this regulation. We must act now to stop the harm that is being done to problem gamblers.

Another reason why we should have this debate is that the subject matter is so serious. In order to establish how serious and urgent it is, I will briefly summarise the issue. Before the regulation came into force, if the total gaming machine prize money payable to a person exceeded $1,000 the relevant hotelier or registered club had to pay the person the amount exceeding $1,000 by either cheque or electronic funds transfer. The regulation that the Greens are seeking to disallow, increases that mandatory threshold from $1,000 to $2,000 in prize money before the rules kick in and a cheque or electronic transfer is required. The obvious consequence is that sums of up to $2,000 in cash are being dispensed at pubs and clubs across New South Wales, exacerbating the difficulties faced by problem gamblers and the threat of theft and associated violence.

It is highly irresponsible to give gambling addicts windfall winnings in cash. If winnings are paid by cheque or electronic transfer there is time for the gamblers to cool off. There is more chance that those winnings will be retained and put to good use rather than going straight back into the machines. This matter is urgent because front-line counsellors are reporting a steady increase in the number of problem gamblers who are seeking their assistance. Let us remember how serious a problem gambling is. Studies have shown that problem gamblers lose on average $12,000 per year. Gambling has a disproportionate impact upon certain social and ethnic groups. The loss of $12,000 per year has an untold impact on families, many of whom probably do not have that much money to spare in the first place. These people are addicted to gambling in the same way that others might be addicted to alcohol and other drugs. They cannot control their actions.

In that light, it is highly irresponsible to give problem gamblers windfall winnings in cash. They need a cooling-off period, which will increase the chance that they will retain their winnings and put them to good use. The $12,000 that problem gamblers lose every year could be reduced. A cooling-off period would allow friends and families to have a say. I understand that this legislation may be the product of lobbying by hotels and registered clubs. They have an interest in dispensing cash because it increases the likelihood that gamblers will go straight back to the pokies and blow the lot. The more money that goes through the machines, the more money the hotels and registered clubs make.

This matter is urgent because we must make every effort to help problem gamblers. It is time for pubs and clubs to accept that they have a responsibility to their customers and a social responsibility to help ameliorate problem gambling. They must consider that wider social responsibility and drop their push for higher mandatory cheque thresholds. Of course, many people who play the pokies are not problem gamblers. For them, it is a harmless form of recreation. But for the percentage of the population who are gambling addicts, their addiction can ruin their lives. They have little control over their actions. They are extremely vulnerable, and pubs and club should be very careful not to exploit them.

This issue is urgent because the regulation puts at risk the safety of staff and patrons. Pubs and clubs should be concerned about that. It is obvious that if someone has a big win on the pokies it is unlikely to go unnoticed by other patrons. Word will get around. Someone who receives up to $2,000 in cash may become the target of theft or violence, as might others in the vicinity. Remember that we are talking about pubs and clubs, and the link between alcohol and violence is well established. If a winning punter manages to resist the temptation to go straight back to the pokies and blow the lot, he or she runs the risk of being mugged on the way home. It is not much of a choice. This matter is urgent because in August 2004 the Independent Pricing and Regulatory Tribunal recommended improved responsible gambling controls.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 7

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

Noes, 25

Mr Breen	Mr Gallacher	Ms Robertson
Mr Brown	Miss Gardiner	Mr Ryan
Ms Burnswoods	Mr Gay	Ms Sharpe
Mr Catanzariti	Ms Griffin	Mr Tsang
Mr Clarke	Mr Kelly	Mr West
Mr Colless	Mr Lynn	
Ms Cusack	Ms Parker	*Tellers,*
Ms Fazio	Mrs Pavey	Mr Harwin
Mrs Forsythe	Mr Pearce	Mr Primrose

Question resolved in the negative.

Motion negatived.

DRUG MISUSE AND TRAFFICKING AMENDMENT (HYDROPONIC CULTIVATION) 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) [2.45 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 addresses the cultivation of prohibited plants by hydroponic or other enhanced indoor means and is directed towards organised commercial production using residential premises. In recent years NSW Police have detected a significant increase in the number of hydroponic cannabis operations conducted in domestic dwellings, as well as an increasing tendency for these operations to involve organised crime syndicates. Cannabis plants cultivated by hydroponic and other enhanced indoor means grow much faster than plants grown by traditional outdoor methods, and produce between five and seven times the yield. The current quantity amounts in the *Drug Misuse and Trafficking Act* at which maximum penalties apply for cannabis cultivation offences are based upon the yield, harvest patterns and profitability of outdoor, or "bush grown" cannabis. They are not an accurate reflection of the commerciality of hydroponic cannabis operations. This bill addresses this inequity.

Schedule 1 amends the Drug Misuse and Trafficking Act 1985. Item [1] inserts into the Act a definition of "cultivation by enhanced indoor means" in relation to a prohibited plant. The two leading methods of enhanced indoor cannabis cultivation—hydroponics and aeroponics—are covered by the definition.

Item [16] inserts a new plant category into schedule 1 of the Act entitled "Cannabis plant cultivated by enhanced indoor means", with the commercial and large commercial quantities being set at levels five times lower than for outdoor cannabis, to reflect the much higher yields produced by this method. This means that existing maximum penalties for cultivation offences involving commercial and large commercial quantities will cut in at these lower levels in respect of cannabis cultivated by enhanced indoor means in order to reflect the commerciality of operations of this size.

The bill makes no change to existing small and indictable cannabis quantities, with current maximum penalties continuing to apply in these cases.

Item [5] creates a new offence targeting the enhanced indoor cultivation of a prohibited plant for a commercial purpose. The offence will be available in cases involving not less than the small quantity and less than the new commercial quantity for enhanced indoor cultivated cannabis (5-49 plants). The new offence recognises that there may be enhanced indoor operations within this range that produce commercial yields for the purpose of sale, but that there may also be home growers who cultivate this number of plants for their own personal use. As a result, the offence will require the prosecution to prove a 'commercial purpose', which will require proof of intention to sell any of the plants or its products, or proof of a belief that another person intends to do so. The new offence will carry the same maximum penalty as a cultivation offence involving a commercial quantity—that is, $385,000 and/or 15 yrs imprisonment.

Item [8] introduces offences into the Act with respect to the enhanced indoor cultivation of prohibited plants in the presence of children. The aggravated offences take the same form as those included in the recent *Drug Misuse and Trafficking Amendment Bill 2005*, and recognise the inherent risks to children of exposure to the hydroponic process, such as fire, electrocution, extreme heat, dangerous chemicals, insecticides and fumes as well as toxic gases and airborne bacteria. Maximum penalties for the aggravated offences will be 20 per cent higher than for existing offences.

The bill also amends the drug premises provisions of the *Drug Misuse and Trafficking Act 1985* and the *Law Enforcement (Powers and Responsibilities) Act 2002* to enable police to respond effectively to the clandestine and highly organised criminal

activity associated with commercial hydroponic cannabis operations. Item [13] extends the definition of "drug premises" to include "premises used for the unlawful commercial cultivation by enhanced indoor means of any prohibited plant". The current indicia in section 36W of the *Drug Misuse and Trafficking Act* that assists the court in determining whether a particular premises is in fact a drug premises will also be amended to include items specific to the enhanced indoor cultivation of cannabis and other prohibited plants.

Due to the widespread practice among organisers of hydroponic cannabis operations of stealing electricity from the grid to operate their lights, ventilators and other equipment, the bill also amends the *Electricity Supply Act 1995* to increase maximum penalties associated with this practice.

In summary, the measures contained in the bill constitute yet another decisive response by the Government to developments in drug crime as they emerge. The new laws have been designed in a such a way as to specifically target the ***commercial*** cultivation of prohibited plants through hydroponic and other enhanced indoor means, and will ensure that maximum penalties for these offences accurately reflect the level of commerciality and criminality involved. They will also provide law enforcement with the necessary armoury to infiltrate the clandestine and highly organised criminal activity associated with operations of this nature, sending a clear message that "out of sight" will not necessarily mean "out of reach" from the law for these criminals.

I commend the bill to the House.

The Hon. DAVID CLARKE [2.46 p.m.]: The Drug Misuse and Trafficking Amendment (Hydroponic Cultivation) Bill is not opposed by the Opposition. Its purpose is to amend the Drug Misuse and Trafficking Act 1985 to make further provision relating to the cultivation of prohibited plants—being cannabis, coca and opium poppy plants—by enhanced indoor means, that is, hydroponics and similar indoor cultivation. The growing trade in illegal drugs is escalating to ever greater proportions. It is a trade that has a devastating effect on those who are addicted to such drugs, especially young people. It is a trade that encourages highly organised criminal elements, who largely operate this illegal industry amassing enormous profits in the process.

It is a trade that encourages, steers, and forces those who are addicted to these illegal drugs into a life of crime in order to obtain the drugs needed to satisfy their addiction. And it is a trade that saddles the community with enormous social and economic costs: the break up of families, the abuse of children, escalating levels of crime, and soaring increases in insurance premiums for those whose properties are invaded and plundered by addicts to pay for their addiction. They are the consequences of the illegal drug trade. In the past the cultivation of illegal drug plants has been based on outdoor or bush-grown cultivation, but there has been a disturbing trend in recent times towards the production of indoor-grown or hydroponically cultivate plants. It is recognised that plants grown indoors—that is, plants grown with the assistance of artificial light and hydroponic systems—grow faster and produce higher yields.

Indoor plants are noted for their higher yield—five to seven times greater than outdoor cultivation—and frequently higher potency. The growing of hydroponically produced drug plants is increasingly popular for other reasons as well. There is a perception that there is a reduced risk of detection and an increased sense of security for the producer. In 2001 the Australian Crime Commission noted in its annual drug report for that year that hydroponic cultivation is the most common method of growing cannabis for the domestic market. South Australian police reported that 90 per cent of cannabis seized in that State during the reporting period was hydroponically grown, and high rates also exist in New South Wales.

Clearly the trade in hydroponically cultivated drug plants or those produced by other enhanced indoor means is a major and growing problem. The Government has introduced this bill to deal with this problem. The bill creates a new offence where a person cultivates by enhanced indoor means, or knowingly takes part in the cultivation of by enhanced indoor means, a number of prohibited plants which is not fewer than five plants and fewer than 50 plants for cannabis plants and 250 plants for other prohibited plants, and cultivates, or knowingly takes part in the cultivation of, those prohibited plants for a commercial purpose.

"Cultivating for a commercial purpose" includes cultivating the plant with the intention of selling it or any of its products or, with the belief that another person intends to sell it or any of its products. Alternative verdict provisions in the bill will enable juries that are not satisfied that a person has committed the offence the person is charged with to convict the person of a lesser offence, if they are satisfied that the lesser offence has been committed.

Penalties relating to the new offence provide, first, a fine of 3,500 penalty units, currently $385,000, or imprisonment for 15 years, or both; or, second, if the court is satisfied that the offence involved not less than the large commercial quantity applicable to the prohibited plant, a fine of 5,000 penalty units, currently $550,000, or imprisonment for 20 years, or both. There will be a 20 per cent increase in the penalty for cultivation where a child—defined as a person under 16 years of age—is present at the cultivation process or exposed to substances being stored for use in that cultivation process.

However, for reasons best known to itself, having provided for an aggravated offence where children are present, the Government provides an escape clause for the criminal cultivators of these prohibited plants if the defendant can establish that the exposure of the child to the prohibited plant cultivation process, or to substances being stored for use in that process, did not endanger the health or safety of the child. Exposing children to the cultivation of such illegal drug plants should always be seen as endangering the health or safety of the child, and this escape clause provided by the Government for these drug cultivators makes a total mockery of this aggravated form of offence.

An extended definition is given for "drug premises". Currently such premises are defined to mean any premises that are used for the unlawful supply or manufacture of prohibited drugs, and prohibited plants do not come within the definition of prohibited drugs. Consequently a new definition of "drug premises" defines such premises as:

> Any premises that are used for either or both of:
>
> 1. the unlawful supply or manufacture of prohibited drugs;
>
> 2. the unlawful commercial cultivation of prohibited plants by enhanced indoor means.

The bill sets out a number of matters that a court may have regard to when determining whether the premises were being used for the unlawful commercial cultivation of prohibited plants by enhanced indoor means. These include evidence of the presence of electric lights of 250 watts or higher, fluorescent lights that combine the red and blue parts of the light spectrum, light units comprising high intensity discharge lamps, ballasts, lamp mounts and reflectors, and evidence of the presence of growing chambers. Other evidence that a court may have regard to includes the presence of literature concerned with hydroponic or other enhanced indoor cultivation methods, the presence of cannabis seeds, cut cannabis leaf or plants, or chemicals or nutrients typically used in enhanced indoor cultivation.

The courts may also have regard to electricity consumption patterns for such premises in comparison with other similar premises not used in such cultivation. Because of frequent instances of the stealing of electricity for use in the cultivation process, the Electricity Supply Act is amended to increase penalties for stealing electricity where the electricity is stolen for the purpose of cultivation.

Because of its strong and well-documented opposition to illegal drugs, the Opposition will not oppose the bill, but Coalition members are concerned that it has taken the Government such a long time before it decided to act to combat this newer form of drug production—hydroponic cultivation. It is not as if the Government has been taken by surprise on this issue. Warning bells have been ringing for some time now that indoor drug plant cultivation was escalating. As the shadow Attorney General pointed out in the other place, back in October 1999 Assistant Commissioner Clive Small wrote a report warning of escalating gang violence related to the control of the drug trade, especially the hydroponic cultivation of cannabis.

There has been a lot of buck-passing on this issue within Government circles, but the end result has been no action until now. And why suddenly, at this time, do we have this bill, which finally is an acknowledgement by the Government of a problem it had known about for years? Well, it is because there is an election pending—that's why! In its frantic desire to show it is doing something about this issue, the Government has cobbled together this bill. It is certainly a step in the right direction, but it is long overdue. We should have had a bill such as this years ago. Let us hope that it is effective. Let us hope the legislation is not filled with drafting errors brought about by the Government's haste to rush it through—a practice that is becoming far too common with this Government.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [2.53 p.m.]: Sadly, I do not support the bill. This is, as the Hon. David Clarke pointed out, a ramping up of penalties with one eye on the election. I do not always agree with the Hon. David Clarke; indeed, very often I do not. I do agree that a bill like this comes at a great cost to drug addicts. The cost of drug addiction to addicts is ever-increasing, and gang violence may well come from involvement in drugs. The point, however, is that the addicts suffer because of their addiction, which is a mental and physical problem. The fact that drug use is criminalised is a social construct that successive governments have put upon the use of these drugs.

For a long time now the point has been made by intelligent drug researchers that drugs have two components. The first is their pharmacology—what the drug actually does in the body of a person. Large bodies of research, on rats, guinea pigs and various other species, including humans, have resulted in conclusions about

the pharmacology of drugs. The second component is the social context of the drug's use. It might be noted that when the suggestion was made to tax beverages on the basis of their alcohol content, representations were made about varying implications from alcohol in different alcoholic drinks, in that wine tends to be consumed with meals and beer tends to be consumed on the way home. Thus consumption of a certain quantity of alcohol contained in beer might have a more adverse affect on driving than would consumption of the same quantity of alcohol in wine. That is because wine is more often consumed at home and with meals, delaying the absorption of the wine into the bloodstream, reducing the peak alcohol concentration and having less of an effect on driving ability.

The main element of drug use, in its social context, is the decision to criminalise certain types of drugs. I think the only justification for criminalising drugs is that the totality of the harm of the drug to society is reduced. Criminalising some acts and continual ramping up penalties leads to offenders spending more time in gaol. This increases the price of the drug because the substance is illegal and people associated with it want a premium for taking the risk of going to gaol. That means a large number of video recorders have to be stolen and sold, or a large number of houses have to be broken into, to raise money to buy the drug. Thus we spend a lot of money on our gaols and policing, and we worry about gang shootings—all downsides of criminalising drugs. That is in a sense a construct—well intentioned perhaps—to criminalise drug use.

The criminalisation often destroys the addict's life. Someone with a personal problem, or with an experimental nature, starts on the drug, becomes addicted to it and resorts to a life of crime to get money to buy it. The amount of money needed to buy the drug is ramped up in accordance with the illegality of the drug. Users caught stealing to satisfy their habits are taken off to gaol, and their lives are ruined. So what started off as a medical weakness ends up in a life-destroying event.

In the United States of America, following what was called the Noble experiment in the 1930s, it was decided that the criminalisation of alcohol created more problems than allowing alcohol to be sold freely. Years ago some forms of gambling were prohibited. Subsequently it was decided that prohibition provided more opportunity for organised crime than did deregulating gambling. In my view, we went completely stupid on gambling. Not only did we declare gambling legal; we went further and said it was a free-for-all, and permitted advertising of it on television, allowing poker machines to spread throughout the community like confetti.

Of course, this enabled governments to profit. Even worse, it was decided to let the media barons have a stake in gambling. The end product was a huge problem. Rather than trying to minimise harm, we chose a road that changed drug use from illegal, to tolerated, to legal, and eventually to legal and advertised, making gambling intrinsic to the value of hotels and real estate—indeed, vital to the State's revenues in that the State receives about 11 per cent from the profits of this activity. That indicates the huge spectrum of attitudes we may take.

We are still at the keep-it-criminal level with drugs. However it is obvious, and it is time that the Parliament realised, that this approach is not working very well. We have decriminalised alcohol, although there are some minor restrictions on sale that are insufficient. We have decriminalised gambling, on which there is no restriction on sale and marketing. But we continue to increase and ramp up penalties on highly criminalised drugs based on the public perception that such action will reduce their use and lessen their harm—a defence that is not defensible in any rational analysis. I am bothered by the fact that the legislation is not based on any rational analysis. The Minister never says, "I am ramping up this penalty because I know that if the penalties go up, fewer people will use it, fewer people will go to gaol, and fewer people will become addicted. I have quantified this in this piece of social research." That is not likely.

We have no evidence-based legislation in this State, which is pretty poor. It is difficult enough to have evidence-based medicine, which is still being attempted and is being grafted over the concept of traditional treatments. But at least in medicine there is respect for the idea that one ought to base what one does on evidence. That does not exist in this Parliament. We continue to respond to shock jocks and anecdotes rather than social research. I know that I harp on about this, but it is extremely important that social research quantify the harm that drugs do and justify the legislation. However, the legislation does not come within a bull's roar of that definition. I quote from the Australian Drug Law Reform Foundation 10-point plan to lessen the harm of drugs, which was drawn up in 1998.

Reverend the Hon. Dr Gordon Moyes: How many times has this been in *Hansard*?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Not quite as often as the legislation ramping up penalties, because I have missed a few. I am sorry about that, but I am happy to duplicate it, if it will help. The first point in the 10-point plan is to treat drug use as a health and social issue, not as a law enforcement problem; the second, to maintain penalties for unauthorised large-scale cultivation, production, transport, sale and possession of all drugs; the third, to fund equally law enforcement, education and treatment; the fourth, to provide well-funded, research-based, effective drug education for the community and schools to be developed by education and health professionals; the fifth, to remove criminal sanctions for the personal use of illicit drugs; the sixth, to regulate and tax commercial production and sale of cannabis; the seventh, to expand drug treatment and needle exchange programs to meet demand, and establish safe injecting facilities; the eighth, to adopt non-custodial sentencing options, such as drug treatment, counselling or community service orders, for those apprehended for minor drug-related offences; the ninth, to trial and rigorously evaluate a wide range of treatment options, including the medical prescription of heroin; and the tenth, to expand Australia's successful harm-reduction approach to drugs for the benefit and wellbeing of all members of the community. That is what we should do about drugs. We should not pass this type of legislation, which has absolutely no research basis to it.

Reverend the Hon. Dr GORDON MOYES [3.03 p.m.]: On the behalf of the Christian Democratic Party I speak to the Drug Misuse and Trafficking Amendment (Hydroponic Cultivation) Bill. The object of the bill is to amend the Drug Misuse and Trafficking Act 1985 and other legislation to more appropriately prosecute the production of cannabis by hydroponic or other enhanced indoor means. The measures are aimed at organised commercial production that takes place within residences. Recently I read that the financial size of the illicit cannabis industry is as big as our nation's total gold industry, twice the size of our nation's wine industry, and three-quarters the size of our nation's beer industry. This is an astonishing fact given that we are comparing legal with illegal industries.

Clearly, law enforcement authorities have their hands full endeavouring to eliminate this illicit practice from our communities. Every now and then we hear calls from various groups that claim that because the commercial cannabis industry has become so widespread, this is sufficient reason to legalise the use of and trading in cannabis. However, I firmly believe that these calls constitute one of the great policy paradoxes of modern times, because for those who desire to have cannabis legalised, and thus, take a more relaxed and liberal attitude towards so-called "soft drugs" such as marijuana, it sits uncomfortably with their resistance towards the big-business legalised drugs of tobacco and alcohol.

This is most ironic. In my opinion, all these drugs are extremely dangerous substances and the Government must take strong and decisive measures to protect the community from them wherever possible. Just because cannabis is seen by some as a little Rastafarian and tobacco is a little multinational does not justify taking an inconsistent approach. We should place the physical and mental health of our communities at the forefront. For example, the New South Wales Health Centre for Drug and Alcohol produced a report this year entitled "Cannabis and Associated Physical and Mental Health Risks: A Survey of Research Evidence". Unlike the previous speaker who gave us some good ideas, but not much evidence, this is based upon a survey of research evidence, and found that cannabis has a detrimental effect on the cardiovascular system; when smoked, cannabis harms the respiratory and immune systems; reproductive organs can be harmed through frequent use; foetal development can be impaired; cannabis warps perception, reactions are slowed, motor skills are impaired and concentration is more difficult; and premature ageing in the area of the brain responsible for short-term memory—hippocampus—can be caused by habitual use.

Cannabis has also been linked to slowed brain development and brain damage through frequent use, particularly if consumed at a young age. Chronic use of cannabis is linked to high rates of depression, anxiety and lack of motivation in long-term users. For the past five years I have been responsible for the purchase and building of a number of mental hospitals. Until just recently I was responsible for 72 psychiatrists on my staff. In the 1980s I began to notice the strong increase in the number of young adults with schizophrenia, and I asked our psychiatrists to take note of any link between cannabis use and psychosis, particularly schizophrenia. Today, of course, this is acknowledged. These serious findings should be strongly noted. According to the Australian Crime Commission, in its illicit Australian Drug Data Report 2004-2005, the most common method of cannabis cultivation is by using hydroponics, and the majority of cannabis consumed in Australia is domestically produced. The commission makes the following point:

> The cannabis market is not as sophisticated as other illicit drug markets due to the relative ease of production and potential high profits. The majority of cannabis consumed in Australia is domestically produced, with outdoor and hydroponic cultivation prolific in all states and territories. While large outdoor bush plots ranging in size from one to tens of thousands of plants remain common, the most commonly detected method of cultivating cannabis is through the use of hydroponics (or other enhanced indoor cultivation methods), usually detected within residential premises.

In 2004-05 cannabis remained widely available throughout Australia. A survey of injecting drug users in Australia described the availability of cannabis as stable, and considered cannabis as very easy or easy to obtain in all jurisdictions, with hydroponic cannabis dominating the market. Clearly, a bill that tightens the prosecution of hydroponically grown cannabis is important, and is simply not a cosmetic change in legislation. Rather, the legislation is aimed at the very heart of cannabis production, which takes place on a domestic level. I commend the Government for its initiative in refining the legislation. To make the biggest dint in cannabis production we must focus our efforts on dealing with cottage industry cannabis growers as much as we focus on breaking the back of larger and more sophisticated cartels that may operate out of large-scale venues.

It is of interest to note that cannabis drug production through hydroponics and trade is perhaps qualitatively different from other illicit drugs. Compared with naturally grown cannabis, hydroponic cultivation increases yields, shortens the time taken to produce mature plants, and allows for full year-round production. The rise of hydroponic and other enhanced indoor cultivated cannabis has revealed a problem with assessing the scale of cannabis cultivation for prosecution purposes simply by the number of plants. Currently the prosecution of cannabis production, under the current Drug Misuse and Trafficking Act, is based on whether the total number of plants that are found in a drug dealer's possession falls below thresholds of 5, 50, 250 and 1,000 plants.

But what is not considered is the number of flowering tops or bracts, called heads, in every plant, which is a good indication of the overall productivity of a crop. Hydroponic cannabis is selectively bred to contain more heads and less leaf than does naturally occurring cannabis. Given that hydroponic cultivated cannabis also grows faster in optimal conditions, the yields over time can be five to seven times that of the traditional outdoor growth. One should also note that different crops are capable of producing huge variations in the levels of the active chemical tetrahydrocannabinol [THC]. According to the National Drug and Alcohol Research Centre, the levels of THC can vary in potency from 1 per cent potency up to 20 per cent. Hydroponic methods aim to create the most productive and potent cannabis plants that are found at the top end of this scale. It is clear that 20 plants grown naturally are not equivalent to 20 plants grown hydroponically. The popularity of hydroponic cannabis among drug users due to its perceived potency has meant that the trade has become increasingly lucrative, with street values that can reach double that of naturally grown alternatives.

The production of hydroponic cannabis can be quite intensive and usually requires high supplies of electricity to maintain powerful heat-producing lights. The annual report into illicit drugs produced by the Australian Bureau of Criminal Intelligence in 2000-01 highlighted the increased problem of electricity theft by growers who steal electricity from nearby sources with specialised equipment to avoid detection by law enforcement authorities. I am pleased that the Government has acknowledged this problem of drug producers using devious methods to avoid detection by increasing the significant penalties under the Electricity Supply Act 1995. The bill amends this Act to increase maximum penalties associated with electricity use for the hydroponic cultivation of drugs. I will not exhaustively detail the exact nature of all the amendments made by the bill to the Drug Misuse and Trafficking Act.

However, it suffices to say that the amendments made by the bill include the insertion of a definition of cultivation by enhanced indoor means—the two leading methods of enhanced indoor cannabis cultivation, hydroponics and aeroponics, are covered by the definition—replacing the definition of prohibited plant to include cannabis plant cultivated by enhanced indoor means; replacing the definition of drug premises and creating new offences of cultivating prohibited plants by enhanced indoor means in quantities greater than small quantities but less than commercial quantities; and cultivating prohibited plants by enhanced indoor means in the presence of children. Maximum penalties for these new offences will be 20 per cent higher than for existing offences. Speakers in this debate who make the point that this bill is simply another way of the Government collecting revenue by increased penalties should re-examine the bill. A 20 per cent increase in penalties is not very significant over a period of years.

There are specific risks to children who are exposed to the hydroponic process, such as fire, electrocution, extreme heat, dangerous chemicals, insecticides and fumes, as well as toxic gases and airborne bacteria. However, I must draw attention to the comments made by the Legislation Review Committee in relation to the onus of proof provided in proposed section 23A. This is a matter the Government should examine closely. Proposed section 23A places the onus of proof regarding whether a child was endangered, which is the essence of the offence, on the defendant. The committee has stated:

> 13. The Committee notes that reversing the onus of proof is inconsistent with the presumption of innocence, which is a fundamental human right.

> 14. The Committee notes that while reversing the onus of proof may be appropriate in certain circumstances, proposed s 23A appears to fall outside the Commonwealth guidelines for such provisions …
>
> 16. The Committee refers to Parliament the question whether proposed section 23A trespasses unduly on the right to the presumption of innocence by reversing the onus of proof.

I await the Minister's reply to hear what the Government says in response to those comments. Lastly I make the point that South Australia, Western Australia and the Australian Capital Territory already have legislation that distinguishes between cannabis that is grown hydroponically and conventional methods. This legislation will join the host of other State legislation dealing with the issue. The Christian Democratic Party commends the bill to the House.

Ms LEE RHIANNON [3.14 p.m.]: This bill is further proof of the failings of prohibition when it comes to cannabis. The current prohibition approach can never succeed, and serves only to enrich organised crime and create criminals where none might otherwise exist. We in the Greens are fully aware of the potential health problems arising from smoking cannabis. While there is some medical disagreement about the specifics, there is no doubt that high-level use of cannabis, cannabis abuse, can create health problems. This is particularly the case when it comes to hydroponically grown cannabis. One hears differing opinions about whether hydroponic cannabis has worse health impacts than regular cannabis has, but certainly many experts are convinced that it does. This could be because of all the chemicals used—it is almost the opposite of an organic cultivation process. I certainly do not encourage cannabis use. Views on drug use are varied. Irrespective of what any of us think, cannabis use is widespread and will continue to be so.

The challenge for this Parliament should be to ensure that any harm arising to cannabis users is minimised and that health information is made fully available so individuals can make informed choices about whether to use cannabis. In that context I am pleased that this bill sets at five plants the small category definition for hydroponic plants, which is the same as for regular cannabis plants. Those who grow cannabis for personal use, whether indoors or outdoors, ought not to be treated like criminals. Many people in New South Wales grow cannabis for medical purposes, such as for relief from chronic pain and illness. For example, many cancer patients find cannabis invaluable for controlling pain. Many of those people may not have a suitable outdoors area and have no choice but to grow their plants indoors. It would be a tremendous injustice if those people were treated like criminals.

One of the numerous disappointments of the Carr-Iemma administration has been the way in which medical cannabis has dropped off the agenda. At times both the former Premier, Mr Carr, and Minister Della Bosca have spoken in support of the concept and have promised action, but that was all for nothing. It would be a compassionate step that I am sure could win public support, if explained clearly. I definitely believe that the leaders of this State have a responsibility to do that. They need the political will and courage to explain to people the benefits of the medical use of cannabis in recognition of its ability to provide relief from pain. The very fact that legislation like this bill is so frequently needed simply underscores the futility of the prohibition approach. Those who cultivate and sell commercial quantities of cannabis will always find new ways to do so because there is so much money in it.

Prohibition serves to enrich organised crime. The police and the Government can only try to keep up with new laws and new tactics, but despite short-term wins the war will always be lost. That has been obvious for many decades in Australia and North America. It is tragic that this trend continues to dominate decision makers in this State and throughout Australia. Along the way a lot of undeserving people are made into criminals. I am not talking about the Mr Bigs of organised crime—I have no sympathy for the Mr Bigs—but, rather, the individual users or minor players who get caught up in commercial cannabis operations. Often an entire suburban house that is effectively turned into a giant hydroponic factory might have had the change imposed by duress. It seems likely that because someone got into debt to maybe a loan shark, or fell behind in payment to their own drug dealer, the only way they can make good is by turning their house over for the production of hydroponic cannabis. Under this bill those people will go to gaol for a long time—yet more victims of the prohibition approach, which does not make our communities safer, save lives or provide information that would enable people to understand the real impact of drugs.

I also have to question the sense in the provisions relating to children. The bill introduces aggravated offences for cultivating hydroponic cannabis in the presence of children. Obviously I understand the health risks posed for children. Any parent who exposes his or her children to these dangers is irresponsible. But, in practice, what difference will the bill make? How many people involved in cannabis houses will actually be aware of the new aggravated offence? I suggest almost none. It seems to me that the more likely outcome will just be longer

sentences for small-time operators who, by the very nature of the crime dealt with by this legislation, would be people who have children and who have been forced into cultivation under duress. The people contemplated by this legislation are much more likely to have children around than are the big-time commercial operators. What will happen to children whose parents are found guilty of the crimes referred to in the legislation?

It is time for a serious rethink of how we deal with cannabis. The prohibition status quo is enriching organised crime, wasting public money, and creating criminals whereas they might not otherwise exist. That is the plain fact of the scenario that is being played out in the drug industry under the present laws in this State, and that is what should be addressed. Making criminals richer is not the desired outcome of this legislation. No matter how much we all wish people would not abuse cannabis, we know that some will and that supply will always be abundant. Let us start minimising the harm the drugs industry is doing to our society and to too many individuals.

Reverend the Hon. FRED NILE [3.20 p.m.]: I am pleased to support the Drug Misuse and Trafficking Amendment (Hydroponic Cultivation) Bill, which increases penalties for the cultivation of prohibited plants by hydroponic or other enhanced indoor means. The Hon. Dr Arthur Chesterfield-Evans quoted the Drug Reform Group. I asked him whether there had been any evidence to support their proposals, and he conceded that there was none. He was critical of the bill, but he admitted that there is no evidence to support the views he put forward. Obviously the Christian Democratic Party completely opposes the views presented by the Greens. I congratulate the Government on introducing this long overdue bill. There has been evidence of the use of hydroponic cultivation in the production of marijuana in this State and other States.

In South Australia hydroponic cultivation has become a major industry, as evidenced by the number of hydroponic shops that sell appropriate equipment in that State. Shops that sell equipment for hydroponic cultivation of marijuana are rapidly opening in Sydney, in some suburbs and in some country centres. The number of shops is an indication of the growth in that trade, and offers the police an opportunity of assessing this concerning development. It has been known for some years that outdoor, or bush-grown, cannabis has a THC [tetrahydrocannabinol] component of only 1 per cent. Carefully cultivated hydroponic cannabis, on the other hand, has a THC component of 20 per cent; some literature suggests that the level is more like 30 per cent. We all know that addicts use heroin to get a hit. Well, if hydroponic marijuana has a THC component of up to 30 per cent, it will certainly give a strong hit. Just like nicotine in tobacco, THC has an impact on the person consuming it.

The Hon. Christine Robertson: I have not tried that drug, Fred, have you?

Reverend the Hon. FRED NILE: I have never tried any drugs, including legal drugs. I neither drink nor smoke. I am trying to be consistent in my opposition to legal and illegal drugs. People who grow hydroponic marijuana call their product "skunk"; that is the term they use when discussing its sale. It is very expensive because of the time it takes to grow and because of its impact on the user. I am disappointed that the bill allows a minimum of five plants. People who grow marijuana hydroponically do not grow it for personal use. A genuine marijuana user grows his plants in a pot plant on the back verandah. People who set up a hydroponic system—virtually an indoor laboratory with lighting, irrigation and so on—are into the business of selling to others. Even five plants would enable a grower to sell the drug to other users. I urge the Government to review that situation and amend the provision by deleting "five" and inserting instead "one or more".

As has been said in previous debates regarding drugs, if children are present when drugs are grown hydroponically, those growing the drug should be automatically guilty of a criminal offence. There should be no defence in such circumstances. In one reported case in the inner-western suburb of Ashfield, the South East Asian Crime Squad, which specialises in investigating the hydroponic cultivation of marijuana, discovered that a husband and wife were cultivating 819 plants in four rented homes across metropolitan Sydney, in Liverpool, Fairfield, Bexley and Green Valley. Such activity is a huge problem, and I am pleased we have this important bill to deal with it.

The Christian Democratic Party supports harm prevention, not harm minimisation or harm reduction. Harm minimisation helps young people to use drugs safely, and that is going in the wrong direction completely. For the benefit of young people we must help them to get off drugs, not take the slow, soft approach of harm minimisation. In this State there has been a massive increase in mental health cases, particularly in young people, many of which are related directly to marijuana use, particularly hydroponic marijuana, which has a 30 per cent THC component. To reduce the number of people with mental health problems, we must have a major crackdown on marijuana use. We must introduce appropriate legislation and enforce it vigorously across the State. The Christian Democratic Party is pleased that the Government has introduced the bill.

The Hon. HENRY TSANG (Parliamentary Secretary) [3.57 p.m.], in reply: I thank honourable members for their contributions to the debate. I reiterate the earlier sentiments that the Drug Misuse and Trafficking Amendment (Hydroponic Cultivation) Bill is yet another decisive response by the Government to developments in drug crime as they emerge. The Government remains vigilant in ensuring that when it acts to protect the community from the drug trade its efforts are not subverted by those who attempt to adapt their activities to fly under the radar of law enforcement. The bill specifically targets commercial operations in order to address the recent upsurge in organised crime syndicates taking advantage of the greater profit potential offered by hydroponic operations in light of the current quantity thresholds in the Act, which, as I have mentioned, are based upon outdoor-grown cannabis. The reforms will send a strong deterrent message to those criminals by ensuring that maximum penalties are an accurate reflection of the level of organised criminal activity involved in operations of this nature.

The Hon. David Clarke made a number of comments about defence being an escape clause. Why have a defence? The provision of a defence means a reversal of the onus of proof in relation to the risk of harm. Usually the prosecution has to prove every element of the offence beyond reasonable doubt. However, if a child is exposed to the cultivation process or to substances stored for that purpose, the risk of harm is assumed and the burden then shifts to a defendant to try to prove that the health and safety of the child was not endangered. The defendant must prove that on the balance of probabilities.

In most cases this will be a difficult burden to discharge. However, exposure to substances stored for use in the cultivation process may include benign substances such as water, or growing media used to support plants in place of soil, as well as fertilisers that are commonly stored and used around homes in the community without harm or danger to children. This offence is about harm to health and safety. It is deliberately broad, to make sure no-one is missed. However, because of the sweeping ambit of the offence and the seriousness of the aggravated penalties, if there is any issue at all about harm that should be resolved, it should be addressed by reversing the onus of proof and be the responsibility of the defendant. It has to be remembered that the defence relates only to the new aggravated offences, and if made out the offender still faces a 15-year or 20-year maximum penalty for cultivation where commercial or large commercial quantities are involved.

The Hon. David Clarke said earlier that the Government had taken no action until now, but that is not true. Police operations have been very successful. In 2002 the South East Asian Crime Squad alone seized 353 plants being cultivated through enhanced indoor means with a street value of $688,000. In 2003 this had increased to 2,221 plants. In 2004 a total of 11,743 plants and 71 kilograms of cut cannabis with a street value of $34 million were seized. For the period 1 January to 1 September 2005, 29,019 plants had been seized along with 209 kilograms of cut cannabis. The total street value of these seizures was $40 million. These results are impressive, but even more so when we consider the clandestine nature of hydroponic operations and the level of police intelligence required to infiltrate them. It is also significant due to the far greater yields produced by this form of cannabis. The reforms in the present bill will enable NSW Police to build upon these efforts considerably, and will ensure that the criminals behind these operations face appropriate punishment. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PARLIAMENTARY ETHICS ADVISER

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): I report the receipt of the following message from the Legislative Assembly:

MADAM PRESIDENT

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

That the functions of the Parliamentary Ethics Adviser as set out in the resolution of the House of 11 December 2002 shall be extended to include the provision of advice to Ministers or former Members, as per the following schedule:

1 The Parliamentary Ethics Adviser must on request by a Minister provide written advice to the Minister as to whether or not the Adviser is of the opinion that the Minister's:

(i) acceptance of an offer of post-separation employment or engagement which relates to the Minister's portfolio responsibilities (including portfolio responsibilities held during the previous two years of ministerial office); or

(ii) decision to proceed, after the Minister leaves office, with a proposal to provide services to third parties (including a proposal to establish a business to provide such services) which relates to the Minister's portfolio responsibilities (including portfolio responsibilities held during the previous two years of ministerial office),

would give rise to a reasonable concern that:

(iii) the Minister's conduct while in office was influenced by the prospect of the employment or engagement or the proposal to provide services; or

(iv) the Minister might make improper use of confidential information to which he or she has access while in office.

2 The Adviser must on request by a person who has ceased to hold ministerial office within the previous 12 months ("the former Minister") provide written advice to the former Minister as to whether or not the Adviser is of the opinion that the former Minister's:

(i) acceptance of an offer of employment and engagement which relates to the former Minister's former portfolio responsibilities during the last two years in which the Minister had ministerial office; or

(ii) decision to proceed with a proposal to provide services to third parties (including a proposal to establish a business to provide such services) which relate to the former Minister's former portfolio responsibilities during the last two years in which the Minister held ministerial office,

would give rise to a reasonable concern that:

(iii) the former Minister's conduct while in office was influenced by the prospect of the employment or engagement or the proposal to provide services; or

(iv) the former Minister might make improper use of confidential information to which he or she had access while in office.

3 If the Adviser is of the opinion that accepting the proposed employment or engagement or proceeding with the proposal to provide services might give rise to such a reasonable concern, but the concern would not arise if the employment or engagement or the provision of services were subject to certain conditions, then he or she must so advise and specify the necessary conditions.

4 The Adviser's advice must include:

(i) a general description of the position offered, including a description of the duties to be undertaken, or the services to be provided, based on material provided by the Minister or former Minister but excluding any information that the Minister or former Minister indicates is confidential; and

(ii) the Adviser's opinion as to whether or not the position may be accepted, or the services may be provided, either with or without conditions.

5 When the Adviser becomes aware that a Minister or former Minister has accepted a position, or has commenced to provide services, in respect of which the Adviser has provided advice, the Adviser must provide a copy of that advice to the Presiding Officer of the House to which the Minister belongs or to which the former Minister belonged.

The Legislative Assembly requests that the Legislative Council pass a similar resolution.

Legislative Assembly
7 June 2006

JOHN AQUILINA
Speaker

Consideration of message ordered to stand as an order of the day.

GENERAL PURPOSE STANDING COMMITTEE NO. 1

Membership

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): I inform the House that the Leader of the Government has nominated the Hon. Penny Sharpe as a member of General Purpose Standing Committee No. 1 in place of the Hon. Greg Donnelly.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 2 to 6 postponed on motion by the Hon. Henry Tsang.

PARLIAMENTARY ETHICS ADVISER

Consideration of Legislative Assembly's message of 25 May 2006.

Motion by the Hon. Henry Tsang agreed to:

That the appointment of Mr Ian Dixon as Parliamentary Ethics Adviser by resolution of the House of 1 March 2005 be now extended to 30 June 2007.

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

PRIVILEGES COMMITTEE

Motion by the Hon. Henry Tsang agreed to:

1. That the Privileges Committee inquire into and report on:

   (a) the draft Constitution (Disclosure by Members) Regulation 2006, tabled in the House on 7 June 2006, in accordance with section 14A (5) of the Constitution Act 1902,

   (b) the draft amendments to the Code of Conduct for members of the Parliament, tabled in the House on 7 June 2006.

2. That the committee, in conducting the review under paragraph 1 (a), in addition to considering supplementary returns, give consideration to the feasibility of reporting changes to pecuniary interests by "exception reporting".

3. That the committee consult with the Clerk of the House to ensure a streamlined process is introduced for updating the pecuniary interests register.

4. That the committee report to the House by 3 October 2006.

5. That this House informs the Legislative Assembly that, under standing order 219 of the Legislative Council, the Privileges Committee has the power to join together with any committee of the Legislative Assembly to take evidence, deliberate and make joint reports on matters of mutual concern.

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

CODE OF CONDUCT FOR MEMBERS

Motion by Hon. Henry Tsang agreed to:

That the order of the day for the consideration of the Legislative Assembly's message of 25 May relating to the code of conduct for members be discharged from the *Notice Paper*.

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

COURTS LEGISLATION FURTHER AMENDMENT BILL

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [3.43 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 provides for miscellaneous amendments to courts-related legislation, and is part of the Attorney General's regular legislative review and monitoring program.

Civil Procedure Act 2005

Schedule 1 will amend the Civil Procedure Act 2005.

Item 1 amends section 18(2) of the Civil Procedure Act 2005. This section provides that the New South Wales Crown is exempt from paying certain court filing fees in civil proceedings. This exemption existed in former provisions contained in the civil legislation of each Court. The rationale for the exemption is that the imposition of such fees upon the Crown will often represent a transfer of public funds from one Government agency to another and does not generate an increase in revenue to the whole of government. The exemption does not extend to services provided by the Court.

The *Civil Procedure Act 2005* unintentionally extended the exemption in favour of the Crown to Sheriff's fees. The Sheriff charges fees for services including service of process and execution of writs and warrants. The amendment seeks to restore the status of Sheriff's fees to the position that existed prior to the commencement of the Civil Procedure Act 2005 and enable the Sheriff to recover costs for services provided to the Crown.

Item 2 amends section 77 of the *Civil Procedure Act 2005*. This section outlines how money recovered in civil proceedings on behalf of a person under a legal incapacity is to be managed. At present, money recovered on behalf of a minor may only be paid to the Public Trustee and money recovered on behalf of a protected person may only be paid to their manager. The proposed amendment will give the courts discretion to order payments to other persons. In the case of a minor, courts will now be able to order money to be paid to the Public Trustee or such other person as it directs. In the case of a protected person, courts will now be able to order money to be paid to a manager or such other person as it directs.

This reform will reduce administrative costs and allow parties to receive their compensation sooner. For example a court may order a relatively small payment for medical expenses to be made directly to a parent of a child. This would allow the parents to pay their child's medical bills as quickly as possible. It would also avoid administration costs associated with the Public Trustee double handling the payment.

Item 3 inserts a note to section 81 of the *Civil Procedure Act 2005* to make it clear that provisions dealing with interim payments do not apply to an award of damages to which Part 6 of the *Motor Accidents Act 1988* applies. *The Motor Accidents Act 1988* contains separate arrangements for interim payments once liability is admitted. By making this clarification we remove ambiguity about which regime applies.

Item 4 clarifies the courts' power to issue an arrest warrant in civil proceedings. Section 97 presently allows the court to issue a warrant to arrest a person who fails to comply with an order made under the *Civil Procedure Act 2005* or rules of court or any other Act. There is concern that the term "any other Act" may be limited only to Acts passed by the New South Wales Parliament. Sections 12 and 65 of the *Interpretation Act* create a presumption that a reference to an "Act" may be read as an "Act of New South Wales". There are occasions when the court may wish to issue an arrest warrant in reliance of Commonwealth legislation. By way of example, the Supreme Court, when dealing with matters in the Corporations List, may seek to issue an arrest warrant in reliance of provisions under the Commonwealth Corporations Act.

To avoid any doubt that the court may rely on Commonwealth law the section is amended to refer to "any other law". The term "law" is a broader term that includes state and commonwealth statute law as well as the common law. As a matter of practice, the Parliamentary Counsel uses the broader term "law" to refer to both State and Commonwealth Statute.

Item 5 amends section 113 of the Act. Section 113 sets out a procedure to enable a judgment debtor to sell or mortgage land, which is the subject of a writ for levy of property with the consent of the Sheriff. Where consent is obtained for the mortgage of property it is the practice of the Sheriff to endorse his or her consent on the mortgage. Section 113(6) incorrectly refers to the Sheriff endorsing his or her consent on the "agreement". There is no recognised instrument being an "agreement for mortgage". The proposed amendment will make it clear that the Sheriff is to endorse his or her consent on the mortgage.

Drug Court Act 1998

Schedule 2 makes some minor, but important amendments to the *Drug Court Act 1998* with respect to the eligibility criteria for the Compulsory Drug Treatment Program. The Drug Court will have the power to order eligible offenders to be sent to a special correctional facility dedicated to abstinence-based treatment, rehabilitation and education. The program is aimed at offenders who have long-term drug addictions and an associated life of crime.

Item 1 adjusts the criteria to allow offenders with an unexpired non-parole period of 18 months at the time of sentence to access the program. Currently, an offender must have an unexpired non-parole period of at least 18 months at the time the Drug Court makes the compulsory drug treatment order. This means that an offender who has an 18 month non-parole period at the time of sentence will automatically become ineligible by the time the matter is assessed by the Drug Court. The amendment will increase the potential referrals by preventing offenders from lapsing out of eligibility due to the processing time between referral by a sentencing court and the making of the Drug Court's compulsory drug treatment order. Without this change, offenders with an unexpired non-parole period of 18 months at the time of sentence would become ineligible the next day and, as a consequence, prevent the Drug Court the opportunity to consider making a drug treatment order.

Item 2 will adjust the recidivism criteria of eligible offenders from three prior convictions in the past five years to two prior convictions. This will mean that offenders on the program will have committed a total of three offences in a five year period. The program will remain consistent with the Government's commitment for the program to target recidivist offenders.

Item 3 will remove the automatic exclusion of offenders convicted at any time of an offence involving serious violence but will require the Drug Court to have regard to the offender's history of committing offences involving violence as part of the assessment of the offender's suitability for the program. The amendment will create greater flexibility for the Drug Court to consider whether offenders who may have committed an offence involving violence at some point in their criminal history should nonetheless be suitable for the program. The existing blanket exclusion would preclude any further consideration of these issues.

Land and Environment Court Act 1979

Schedule 3 amends the *Land and Environment Court Act 1979* to allow the court to order the joinder of a person as a party to an appeal against a consent authority's decision to modify a development consent. Decisions in relation to development consents can

affect persons in the neighbourhood or the community other than the parties to the proceedings. Therefore it is important that the Land and Environment Court have the power to join third parties to appeal proceedings relating to these decisions.

At present the Land and Environment Court may join third parties in appeals for the granting of a development consent and appeals against the granting of a development consent. However, if there is a modification of a development consent then there is no such power. The proposed amendment will rectify this oversight.

Under this provision the Court will be able to join a third party to an appeal against the modification of a development consent if the Court is of the opinion that it is interest of justice or in the public interest, or the third party is able to raise issues that would not be likely to be sufficiently addressed if they were not joined as a party.

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

I commend the Bill to the House.

The Hon. DAVID CLARKE [3.43 p.m.]: The Courts Legislation Further Amendment Bill has been introduced by the Government to deal with the unintended consequences of provisions in the Civil Procedure Act 2005. It also amends the Drug Court Act 1998 and the Land and Environment Court Act 1979, as part of what the Government states is a program of monitoring legislation. The truth is that the bill is largely made necessary by government ineptitude and negligence in drafting earlier legislation, and the bill seeks to rectify that. The Opposition does not oppose the bill.

The bill amends the Civil Procedure Act 2005 so as to exempt the Crown from filing fees in certain civil proceedings. This will enable the Government to transfer funds from one department to another when there is no overall increase to the revenue of the Government without incurring filing fees. When the Civil Procedure Act 2005 was proclaimed it had the unintended effect of exempting the Crown from any obligation to pay fees and charges incurred by the Sheriff for services provided by him, such as the execution of writs and warrants. The bill will restore the pre-existing position under which the Crown paid such fees and charges incurred legitimately by the Sheriff for services rendered.

There will be a widening of the courts' powers to direct how damages awarded in civil cases to minors or others with a legal incapacity may be managed. These changes will enable a court to order that the whole or any part of moneys recovered on behalf of a person with a legal incapacity or a person found incapable of managing his or her affairs must be paid to such person as the court may direct. At present, in the case of minors such moneys must be paid to the minor or the Public Trustee only and, in the case of a protected person, they must be paid only to the protected person or the manager of the protected person's estate. This widening of the courts' powers would therefore allow, in the case of minors for example, for payments to be made to a parent rather than just to the public trustee. The effect of such a provision, apart from reducing administrative costs, would be the quicker payment of medical or educational expenses if such payments were made through a parent of the minor. The bill clarifies that such interim payment provisions do not apply to similar payments from a damages award to which part 6 of the Motor Accidents Act 1988 applies and which provides for alternative arrangements.

Currently there is a court power to issue a warrant to arrest a person who fails to comply with an order made pursuant to the Civil Procedure Act 2005, the rules of a court or "any other Act". Because of a concern that the reference to "any other Act" will be narrowly interpreted as meaning New South Wales Acts to the exclusion of all others, the reference to "any other Act" is changed to "any other law" to make it clear that it refers to a State or Commonwealth Act as well as the common law. This will, for example, avoid an arrest warrant issued by a court for breaching a Commonwealth Act being nullified on the basis that the current reference to "any other Act" excludes all but New South Wales statutes.

Under the Civil Procedure Act there is a procedure whereby a judgment debtor wishing to sell or mortgage property that is the subject of a writ for levy of property obtains the consent of the Sheriff to enable the sale or mortgage to proceed. However, as a result of an error in drafting, the reference to the Sheriff endorsing consent on the "agreement for mortgage" is incorrect as there is no such instrumental document recognised in law. Consequently, the Act is amended to make it clear that the Sheriff's consent endorsement is on a mortgage rather than on an "agreement for mortgage".

The bill will amend the Drug Court Act 1998 to widen the jurisdiction of the court to allow it to order eligible offenders to participate in drug rehabilitation and education programs. The changes include reducing from at least three others to two others the number of offences that a person must be convicted of in the five years before sentencing in order to be an eligible convicted offender. The bill also amends the current provision that prohibits a person convicted of an offence of a serious criminal nature from being eligible for the court drug

rehabilitation and education program. An offender's history of committing violent offences will have to be taken into account in determining suitability for a sentence involving compulsory drug treatment detention. In other words, offenders with a history of violence will not be excluded automatically from inclusion in such programs.

The bill also makes an important amendment to the Land and Environment Court Act 1979. At present the Act allows the court to join third parties in appeals both for the granting of a development consent or against the granting of a development consent. But there is no such power to join third parties if a development consent is modified. The proposed amendment will rectify this oversight and give the court the power to join third parties in such circumstances. While this bill is clearly necessary, it is a matter of deep concern to the Opposition because, on the whole, the amendments proposed to the Civil Procedure Act 2005 and the Drug Court Act 1998 are necessitated by the sloppy and incorrect drafting of those statutes initially. The problems that this bill has been drafted largely for the purpose of rectifying arose not as a result of subsequent events that could not be reasonably foreseen but because of drafting errors in the first place. Of this there can be no doubt. To quote the shadow Attorney General, Chris Hartcher, in the Legislative Assembly, this unsatisfactory state of affairs is becoming more frequent with government legislation, especially that emanating from the Attorney General, because:

> … negligently prepared and ill-considered legislation designed to achieve a political objection that is introduced and rushed through without consultation will always contain defects that the Government must seek to amend at a later stage. The Civil Procedure Bill 2005 was ill-considered and rushed through Parliament and the Government is now seeking to remedy its flaws.

The DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! There are too many private conversations being engaged in by members. Only one member has the call. Members wishing to converse should do so outside the Chamber.

The Hon. DAVID CLARKE: How right is the shadow Attorney General. In fact, that practice has been the modus operandi of this Government. Let us hope that this latest blatant example of Government ineptitude, negligence and incompetence in drafting legislation will force it to reflect and change its ways. If it does not, the people of New South Wales will continue to be inconvenienced, will continue to be unfairly and poorly treated, and will continue to suffer unnecessary disruption to their lives at the hands of this Government.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.51 p.m.]: It is rare for this Government to propose a solution to a social and health problem with anything other than a law and order response. One such solution to the drug problem was the introduction of the Drug Court Act in 1998. The diversion of offenders whose offences are usually the result of a drug habit, and the necessity to find money to satisfy that habit, lead to petty crime. The Drug Court was a step in the right direction. The Courts Legislation Further Amendment Bill widens the eligibility criteria of who can be referred to the Drug Court. Therefore, the number of people who would benefit from this opportunity will increase.

I have been advocating alternatives to prison sentences ever since I came into this House. If the main focus of court sentencing were rehabilitation and the re-education of offenders, our society would be a much better and safer place. Restorative justice programs should be used much more extensively than they are at present. I have received that information from all victims' groups, not just from prisoner groups. There is an idea that a longer sentence is the only punishment that victims of crime and their families want, but that is simply not the case. Access to education in prison has been severely wound back during the past 10 years or so, with prison officials making it difficult for prisoners who want to better themselves and prepare for a new life when they leave prison.

The number of courts that offer the successful Magistrates Early Referral into Treatment [MERIT] Program has been increased. Under that program, people who have drug problems are referred to treatment rather than put in gaol. However, that program is in danger of being handed over to the non-government sector. I am concerned that the Government may be trying to scrimp on the program and is not committed to it. I would like the Minister in reply to reassure me that this program will also be rolled out. I have sat in the Drug Court and listened to the proceedings. I have talked to Judge Milson, who has been with the Drug Court since its inception. He said that the Drug Court's role was like that of a strict but benign father.

The Drug Court says to offenders that they must remain drug free to keep out of gaol. When they do that, they are praised, and they receive benefits and a relaxation of their conditions; when they do not, they go to gaol. Some offenders have never had that benign father role in their life, and they have developed a bond with the court. Other offenders awaiting their turn, relatives of the offenders and even some of the court staff clapped for people who were drug free, in recognition of how difficult it is for them. The offenders revelled in having

been praised for their drug-free period—they were praised in a way that they had never been praised before. The model is extremely important; it is quite inspiring.

Drug Courts are not cheap. Indeed, maintaining the supervision levels and so on makes them almost as expensive as prison. However, in terms of an outcome and the overall life pattern, it is an infinitely better way to spend taxpayers' dollars. I certainly support the Drug Courts and the widening of their scope. I also support the MERIT program, which is along the same lines. It is a shame that this Government's approach to drugs is not wider. It is interesting that we are debating this bill after having debated the Drug Misuse and Trafficking Amendment (Hydroponic Cultivation) Bill, which puts people in gaol for longer. We have to work out which direction we are going in relation to drugs. Once we establish courts and set up the legal mechanisms, we have to think about how we can be more humane. I suggest that a more sensible approach to drug policy in general might be the solution.

Reverend the Hon. Dr GORDON MOYES [3.56 p.m.]: On behalf of the Christian Democratic Party I comment on the Courts Legislation Further Amendment Bill. The object of this bill is to make a number of miscellaneous amendments to courts-related legislation. The bill makes some amendments to legislation relating to the courts as part of the Attorney General's regular legislative review and monitoring program. These amendments are minor but important in nature, and essentially tighten aspects of the Civil Procedure Act 2005 and the Land and Environment Court Act 1979. Amendments to the Drug Court Act 1998 extend the scope or reach of the Act to a larger number of offenders. The Hon. Dr Arthur Chesterfield-Evans said that was good, and the Christian Democratic Party encourages and supports it. I will mention some of the more salient reforms.

In relation to the Civil Procedure Act 2005, the bill removes an exemption that currently exists in favour of the Crown in relation to the payment of fees for services provided by the Sheriff. The exemption in relation to the payment of filing fees was unintentionally extended to fees charged by the Sheriff for serving process, and executing writs and warrants. However, the amendment will now allow the Sheriff to recover costs for services provided to the Crown. Amendments are also made to reinstate the court's discretion to direct the payment of money recovered on behalf of a person under a legal incapacity to a person other than the Public Trustee in relation to a minor, or a manager in relation to a protected person. It may be appropriate for the court to direct payments to another person, for example, a parent, to cover certain medical expenses. These amendments will allow parties to receive their compensation sooner rather than later. This is an important development, as persons entitled to compensation in these scenarios are often frustrated by the amount of red tape involved when seeking to obtain their rightful compensation.

The bill will also clarify that the scheme of interim payments under the Civil Procedure Act 2005 does not apply to damages under part 6 of the Motor Accidents Act 1988. The Motor Accidents Act 1988 contains separate arrangements for interim payments once liability is admitted, thereby removing any possible ambiguity. Under the bill, the court will be able to issue an arrest warrant in reliance of provisions under Commonwealth or interstate legislation. As indicated by the second reading speech, "there are occasions when the court may wish to issue an arrest warrant in reliance of Commonwealth legislation". As is often the case, Federal legislation applies to local scenarios, for example, Corporations Law and terrorist legislation. The proposed provisions will remove any doubt that the court may rely on Commonwealth law for the purposes of issuing an arrest warrant.

As mentioned by my colleague the Hon. Dr Arthur Chesterfield-Evans, the bill amends the Drug Court Act 1998 with respect to eligibility for the Compulsory Drug Treatment Correctional Centre. Most importantly, in order to qualify for treatment by this centre, the bill will reduce the number of requisite prior convictions in the past five years from three to two. It could be said that if a person has been convicted twice in the past of drug-related offences it is sufficient reason for them to receive treatment by the centre.

The bill will enable offenders with an unexpired non-parole period of 18 months at the time of sentence to access the Drug Court program. Further, amendments will be made to remove automatic exclusion of offenders who have a conviction that involves serious violence, and instead will require the Drug Court to pay attention to the offender's history of violence when assessing the offender's suitability for the program. Finally, the bill amends the Land and Environment Court Act 1979 to allow the court to join third parties to appeals against a consent authority's decision to modify a development consent. I commend the bill to the House.

Ms LEE RHIANNON [3.59 p.m.]: The Greens are happy to support the Courts Legislation Further Amendment Bill, which makes minor amendments to the Civil Procedure Act, the Drug Court Act, and the Land and Environment Court Act. In particular, we welcome the changes to the Drug Court Act. These effect marginal improvements to the procedures of the court, slightly broadening the eligibility criteria for admission.

The Greens support the Drug Court of New South Wales. It is one of the very few genuinely progressive reforms this Government has made to the justice system. It recognises that our traditional justice system deals very poorly with drug-dependent people, and does little to address the root cause of their criminal behaviour—their drug addiction.

The Drug Court, on the other hand, provides a structured environment to allow certain people convicted of criminal acts to get clean and get their lives back on track. It assists drug addicts and reduces future crime. It is a commonsense solution. I hope that the Drug Court will one day be expanded. At present it exists only at Parramatta, and only accepts people from specific Western Sydney areas. There is clearly unmet demand here, and given its success to date we should have Drug Courts in many other parts of New South Wales.

Reverend the Hon. FRED NILE [4.01 p.m.]: I wish to add just a few remarks to the debate on this important bill, the Courts Legislation Further Amendment Bill. The Drug Court is a very important part of the war against drugs in this State. The Christian Democratic Party lobbied for many years to have drug courts involving a degree of coercive or compulsory drug and rehabilitation programs. That has always been part of Christian Democratic Party policy. In 2000 I went to Sweden and extensively studied its drug courts program, which involves coercive or compulsory drug rehabilitation programs. Under those programs, if people are addicted to the use of heroin—but do not necessarily commit other crimes—that is sufficient for them to be taken by Swedish police to an assessment centre. The assessment centre, if it agrees that the person is addicted to, say, heroin, refers the person to a special court, which has power to order the person into a compulsory rehabilitation program. That is similar to the system that has now developed in New South Wales.

I was impressed by the success of the Swedish program. Carefully planned and staffed compulsory rehabilitation centres, with caring workers—mainly young persons who identified with the drug addicts—were, in a matter of only weeks, able to convince former drug users to co-operate with the program. They progress through its three levels. The first level is a secure, sanitarium type of facility. After completing a period of time there, addicts graduate to a second centre, and finally a third. The last stage, of course, is return of the rehabilitated person to society. So I am very pleased that the Government is continuing with the drug courts. My only concern—based on the Swedish program—is that all heroin users should be able to access compulsory drug treatment in a rehabilitation centre. In other words, where persons are found to be drug addicts, say, heroin users—who are breaking the law by using heroin but have not committed any other crimes—that should be sufficient to enable the police to order the addict to attend the Drug Court, which could then make a decision to refer the person to the compulsory drug treatment and rehabilitation centre. I believe that would have a massive impact on the heroin drug problem in this city and throughout New South Wales.

At the moment, addicts must commit a crime—such as mug somebody, rob somebody or steal a car—before being eligible to fully access the program. I am saying that those who have a drug addiction problem but have not committed any other crime should be able to access the program. Obviously, that would require a considerable expansion in the number of people able to be accommodated in the program, but in the long run it would be economical if these essentially young offenders were rehabilitated and returned to normal society. That is because most heroin addicts have to sell drugs to raise the money to buy drugs to satisfy their habit.

Therefore most heroin addicts are forced to become heroin dealers. They would certainly be street dealers—not the big dealers, but dealers who supply individual customers on the streets, as we see currently in King Cross near the railway station, opposite what the Government calls the injecting room but I call the shooting gallery. They have to buy drugs before going to that room to inject. The criminals have young people there selling drugs. In the main, they are selling drugs to raise money to buy drugs to satisfy their habits. If we can get young people off heroin, that would get rid of the dealer and reduce the magnitude of the heroin problem in this State. I support the bill, and in particular the compulsory drug treatment and rehabilitation centres and the Drug Court program.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.06 p.m.], in reply: I thank honourable members for their contributions to the debate. The amendments contained in the Courts Legislation Further Amendment Bill are aimed at improving the efficiency and operation of courts in New South Wales. The changes to the Civil Procedure Act will assist minors and persons incapable of managing their affairs who are involved in civil litigation by ensuring that the court has appropriate powers to best direct payments of money recovered on their behalf. The changes to the Land and Environment Court will assist members of the community who may be affected by local council decisions to modify a development consent. The changes to the Drug Court Act are designed to promote the best possible outcomes from the compulsory drug treatment

program. This initiative will benefit the community by rehabilitating offenders who would otherwise remain in a cycle of drugs and crime.

The Hon. David Clarke suggested that the bill would not be necessary if the Government were doing its job properly. A similar line was taken by Mr Hartcher, in the lower House. I would have thought the Hon. David Clarke would have adopted a more enlightened outlook. Legislation such as this, which amends a variety of Acts, is a necessary instrument of modern governments. The changes made by the bill are aimed at improving the efficiency and operation of our courts. If the Government did not make these changes, the Opposition would be up in arms claiming that the Government has caused some kind of disaster in our legal system. The Hon. Dr Arthur Chesterfield-Evans requested a ministerial response to a remark he made. Can I say that his concern is not related to this bill, but I am happy to refer it to the Minister for an appropriate response. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Motion by the Hon. Michael Gallagher agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 121 outside the Order of Precedence, relating to a further order for papers regarding Darkinjung Local Aboriginal Land Council, be called on forthwith.

Order of Business

Motion by the Hon. Michael Gallagher agreed to:

That Private Members Business item No. 121 outside the Order of Precedence be called on forthwith.

DARKINJUNG LOCAL ABORIGINAL LAND COUNCIL

Production of Documents: Order

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [4.11 p.m.]: I move:

1. That this House notes that, on the advice of the Crown Solicitor as to the effect of prorogation, the Government has advised that no documents will be produced in respect of the resolution of the House of 10 May 2006 regarding Darkinjung Local Aboriginal Land Council.

2. That this House notes that there are many established conventions recorded in the Journals of the Legislative Council where the government has complied with an order of the House for state papers in the subsequent session, notwithstanding the prorogation of the House.

3. That under Standing Order 52 there be laid upon the table of the House within seven days of the date of the passing of this resolution all documents in the possession, custody or control of the Minister for Aboriginal Affairs, the Department of Aboriginal Affairs or the NSW Aboriginal Land Council relating to the Darkinjung Local Aboriginal Land Council (DLALC):

    (a) all documents relating to the appointment of an administrator to DLALC in 2006,

    (b) all investigators' reports created in 2004, 2005 or 2006 relating to the DLALC including the August 2005 report by Tim Kelly of Deloittes,

    (c) all letters and submissions received by the Minister from DLALC in response to those investigators' reports,

    (d) all auditors' reports created in 2004, 2005 or 2006, including the draft report of Lawler Partners submitted to the Minister before Christmas 2005, any subsequent version of that report, and any documents relating to auditors' reports, and

    (e) any document which records or refers to the production of documents as a result of this order of the House.

I will not labour the point, other than to say that the motion is a call for papers pursuant to a resolution of the House of 10 May. I understand that the Government will not oppose it.

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEES

Budget Estimates and Related Papers 2006-2007

Debate resumed from 6 June 2006.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.12 p.m.]: It is important that the House have a little longer than originally scheduled to consider budget estimates. I have been in negotiations with the Government and the Leader of the Opposition, who has done a great deal of work. After some negotiation, I move an amendment to the amendment moved by the Leader of the Opposition:

That the amendment of Mr Gallacher be amended as follows:

No. 1 Amendment No. 2 of Mr Gallacher. Omit paragraph 10, insert instead:

10. That the hearings be held according to the following timetable:

Monday 28 August 2006
9.00 am to 1.00 pm
GPSC 1: Premier, State Development, Citizenship
GPSC 3: Justice, Juvenile Justice
2.00 pm to 6.00 pm
GPSC 4: Local Government, Western Sydney, Fair Trading
GPSC 5: Water Utilities, Regional Development, Small Business, Illawarra
8.00 pm to 10.30 pm
GPSC 1: The Legislature
GPSC 2: Tourism and Sport and Recreation, Women, Aboriginal Affairs

Friday 1 September 2006
9.00 am to 1.00 pm
GPSC 1: Industrial Relations, Commerce, Finance
GPSC 4: Roads
2.00 pm to 6.00 pm
GPSC 3: Police
GPSC 5: Energy, Ports, Waterways
8.00 pm to 10.30 pm
GPSC 3: Gaming and Racing, Central Coast
GPSC 4: Housing

Monday 4 September 2006
9.00 am to 1.00 pm
GPSC 1: Treasury, Infrastructure, Hunter
GPSC 2: Health
2.00 pm to 6.00 pm
GPSC 1: Education and Training
GPSC 5: Environment, Arts
8.00 pm to 10.30 pm
GPSC 2: Community Services, Youth
GPSC 5: Primary Industries

Friday 8 September 2006
9.00 am to 1.00 pm

GPSC 2: Ageing and Disability Services
GPSC 4: Planning, Redfern and Waterloo, Science and Medical Research
2.00 pm to 6.00 pm
GPSC 3: Lands, Emergency Services, Rural Affairs
GPSC 4: Transport
8.00 pm to 10.30 pm
GPSC 3: Attorney General
GPSC 5: Natural Resources, Mineral Resources

No. 2 Amendment No. 3 of Mr Gallacher. Insert before paragraph 13:

13. The timetable in paragraph 10 may be varied by the Leader of the Government, provided the time allocated for each portfolio hearing is not reduced.

I commend the amendments.

Reverend the Hon. FRED NILE [4.13 p.m.]: The Christian Democratic Party is pleased to support the amendment moved by the Hon. Dr Arthur Chesterfield-Evans to the amendment moved by the Leader of the Opposition. We thank the Leader of the Opposition for his initiative in commencing the re-organisation of the hearing schedule. The current amendment is an improvement to the original schedule. It may not be exactly what the Opposition wanted, but it is a big improvement. The amendment doubles the hearing time for the majority of the portfolios. All honourable members know that the committees have complete freedom at the completion of the scheduled hearings to vote to hear additional hearings at a convenient time and place. We support, in particular, the insertion of paragraph 13, which provides flexibility. Portfolio areas set down in the first two columns of the schedule can be rearranged to suit the availability of Ministers and the portfolio areas set down in the third column of the schedule can be rearranged within that grouping to suit the availability of Ministers. The third column schedules hearings for minor portfolio areas. However, I wonder whether The Legislature is a minor portfolio—perhaps not.

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [4.15 p.m.]: The Government supports the amendment moved by the Hon. Dr Arthur Chesterfield-Evans to the amendment moved by the Leader of the Opposition. We will not oppose it. The Hon. Dr Arthur Chesterfield-Evans can now retire, having made his one and only achievement in this place! The amendment will provide the committees with more hearing time. But, as Reverend the Hon. Fred Nile pointed out, the amendment was drafted in haste and we have not had time to double-check the availability of all Ministers. However, we agree that the schedule should be flexible.

The Hon. Don Harwin: What can move and what cannot?

The Hon. TONY KELLY: Paragraph 13 in the first draft of the amendment moved by the Hon. Dr Arthur Chesterfield-Evans said that the major portfolios, which have been allocated longer hours, cannot be interchanged with the portfolios set down for 2½-hour hearings in the evening.

The Hon. DON HARWIN [4.18 p.m.]: I am sorry, there is just so much noise in the Chamber that I am finding it difficult to concentrate.

The Hon. Peter Primrose: Point of order: I believe it is an important matter, and my colleague should be heard with due respect so that he can address the important points I know that he has.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! The honourable member will be heard in silence.

The Hon. DON HARWIN: I congratulate all members of the House on arriving at what is an historic and important moment in this Chamber, the evolution of the consideration of the budget estimates by general purpose standing committees, which is represented in the remarks made so far in this debate by the Leader of the Opposition. I pay due credit to the Leader of the Australian Democratic Party in this Chamber, the Hon. Dr Arthur Chesterfield-Evans, the last remaining representative of a once-great party, and the Leader of the House, who has also made some remarks.

At the commencement of this process, the Opposition set out to achieve a number of objectives. In consensus among the Government, the Opposition and the crossbenches this afternoon, I am pleased that virtually all of the objectives have been achieved. The Opposition particularly wanted to move to a Senate budget estimates style of hearings with appropriate modification for the fact that a State Parliament is different to national politics. The principal change is that budget estimates will be examined on sitting days. The Opposition felt very strongly about the issue. There will be not be four days that are non-sitting days in the first round of hearings when general purpose standing committees will meet. That will be received very well by candid members of the House and it will certainly be welcomed by members of the staff. It is important to be conscious of the occupational health and safety of our staff—that is something we cannot forget.

The second important change is that we have broken the nexus of the idea that portfolios as described in a ministerial commission must have equal time devoted to them during the budget estimates examination process. In a motion of which notice was given some time ago in the business paper, my colleague the Hon. Catherine Cusack made some extremely important and relevant remarks on the estimates process. She gave notice of the motion after last year's estimates process had concluded and the notice was restored to the business paper after prorogation. In her observations about the estimates process, she has highlighted the longstanding imbalance between expenditure and weight of a portfolio and the duration of its examination by budget estimates committees.

In motion No. 50 outside of the order of precedence in today's business paper, she outlines in detail the concerns she has. For example, she noted that the Premier's portfolio comprises 18 agencies, including the Cabinet Office, the Premier's Department, the Independent Commission Against Corruption, the Ombudsman, the State Electoral Office, the Independent Pricing and Regulatory Tribunal, the Ministry for the Arts, the State Library of New South Wales, the Australian Museum, the Museum of Applied Arts and Sciences, the Historic Houses of New South Wales, the Art Gallery of New South Wales, the State Records Authority, the New South Wales Film and Television Office, the Community Relations Commission, the Audit Office of New South Wales, and other organisations. The Hon. Catherine Cusack points out that last year the Premier's portfolio was allocated a mere two hours.

In last years budget, the Minister for Education and Training's portfolio was allocated a capital works budget of $448 million and a recurrent budget of $9.257 billion spent across Government schools, non-government schools, TAFE and related services, yet was allocated just two hours in estimates committee hearings. The Hon. Catherine Cusack noted also that the Minister for Health's portfolio was allocated a budget of $10.6 billion last year. The rate of budget estimates scrutiny of that portfolio was one minute per $250 million in a total allocation of two hours. It is worthwhile remembering that during the two-hour period, the Opposition was allocated 40 minutes. The Opposition has been grateful that Government members have not always tried to take up the time of the budget estimates committees by asking dorothy dix questions, but an allocation of two hours in which to examine portfolios during budget estimates committees has not been adequate.

I do not wish to offend the Minister or anyone who works in the Department of Local Government—who are all good people and most of whom, although not all who should, live in a wonderful part of the world, the Shoalhaven—however, the department has approximately 50 employees and—no doubt with the best will in the world—spends hardly any money, has no real front-line service delivery responsibilities except perhaps its administration of the Companion Animals Act, yet receives the same time allocation for a budget estimates committee hearing as portfolios such as Education and Training, Health and Premier. This year the small step of breaking the nexus has been taken. Some of the smaller portfolios will be allocated two and a half hours for hearings, but some of the very important portfolios, such as Premiers, Education and Training and Health, will be allocated four hours.

The Hon. John Ryan: Health has 25 per cent of the whole budget.

The Hon. DON HARWIN: As my colleague points out, Health has 25 per cent of the whole budget, so at least the Health budget estimates examination will be allocated four hours in the next round of budget estimates hearings, which is appropriate. Breaking the nexus has been a great start to the budget estimates reform process. The two principal changes are greatly welcomed by Opposition members. I pay tribute to the Leader of the Opposition, the Hon. Michael Gallacher, and the Deputy Leader of the Opposition, the Hon. Duncan Gay. The Leader of the Opposition's leadership in this process began with consulting the crossbench. Discussions over several months were fruitful. As always, the discussions were conducted with courtesy and great professionalism. The Opposition appreciates the assistance of the crossbench. As recently as yesterday, the Leader of the Opposition and I met with the Leader of the House, the Government Whip and some members of staff from the Government to discuss the issue and those discussions, as always, likewise were cordial. The concerns of both parties were aired and a more complete understanding of the perspective of both the Opposition and the Government was achieved. At that point, the Opposition realised that it would need to hold discussions with the crossbench, if I may put it that way.

I am delighted that the Hon. Dr Arthur Chesterfield-Evans stepped into the breach by offering an alternative proposal in the form of an amendment to the amendment moved by the Leader of the Opposition. The amended motion was presented to the House today. In the fullness of time after conclusion of this debate, it will become the resolution of this House. Historically the Australian Democrats have played an important role in upper Houses. I certainly have not always agreed with the policy positions adopted by the Australian Democrats over a long period.

The Hon. Peter Primrose: When did they start?

The Hon. DON HARWIN: Although I stand to be corrected if I am wrong, I think an Australian Democrat representative was first elected to the Australian Senate in 1977. I am sure there would be many Australian Democrat Senators who have played an important role in budget estimates processes since then. In the twilight years, maybe even months, for the Australian Democrats as a political force, I pay tribute to the tenacity of the Hon. Dr Arthur Chesterfield-Evans. It appears for reasons that are not yet clear, but may become

clearer in the fullness of time, the Hon. Dr Arthur Chesterfield-Evans has broken the impasse. I pay tribute to him. As my voice is about to fail, I commend both amendments and the original motion as amended.

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

Amendment of the Hon. Michael Gallacher, as amended, agreed to.

Motion as amended agreed to.

TABLING OF PAPERS

The Hon. Tony Kelly tabled the following paper:

Crimes (Administration of Sentences) Act 1999—Report of State Parole Authority for the year ended 31 December 2005

Ordered to be printed.

GENERAL PURPOSE STANDING COMMITTEE NO. 1

Government Response to Report

The Hon. Tony Kelly tabled the Government's response to report No. 28, entitled "Personal Injury Compensation Legislation", tabled 8 December 2005.

Ordered to be printed.

SPECIAL ADJOURNMENT

Motion by the Hon. Tony Kelly agreed to:

That this House at its rising today do adjourn until Tuesday 29 August 2006 at 2.30 p.m.

ADJOURNMENT

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [4.35 p.m.]: I move:

That this House do now adjourn.

FEDERAL GOVERNMENT INDUSTRIAL RELATIONS WORKCHOICES LEGISLATION AND LOCAL GOVERNMENT

CLAYMORE STORIES LAUNCH

Ms SYLVIA HALE [4.35 p.m.]: The Federal Government's WorkChoices legislation has caused an enormous amount of uncertainty for both local councils and their employees. Councils do not know whether they are caught by the WorkChoices noose or whether they will remain under the State industrial relations system. They are unlikely to have that issue settled for months, if not years. Placing this whole sector in such a position of uncertainty is yet another negative consequence of this most punitive legislation. If upheld by the High Court, the legislation is likely to have a significant impact on working conditions in local government, with many local council employees potentially losing access to unfair dismissal protections, dispute settling procedures and collective bargaining rights. Over time the effect will be to make council employment less secure and to reduce the role of unions in representing employees in negotiations. That will inevitably result in reduced wages and conditions for council employees.

The effect of WorkChoices will not be uniform and will take time to roll out across councils. That is because the legislation is based on the corporations power in section 51 (xx.) of the Australian Constitution, rather than the conciliation and arbitration power in section 51 (xxxv.). It is the reliance on the corporations power that forms the basis of the High Court challenge against the legislation. The question is particularly relevant for the local government sector. Local councils that are found to be trading corporations will come

under the WorkChoices regime, while those that are found not to be trading corporations will stay under the State system. The decision as to which councils are corporations and which are not will be made by the courts on a council-by-council basis, depending on the extent of a council's trading activities. Running swimming pools, child care centres and rubbish removal services have been found to be trading activities, but in each case a court will have to determine whether the trading activities are substantial enough to make the council a trading corporation.

That is a recipe for ongoing confusion and enormous and unnecessary legal bills. The effect of WorkChoices on local government demonstrates clearly that the Federal Government's line that the legislation is about choice is nothing more than the most cynical of spin. John Howard continues to demonstrate his belief in the Orwellian notion that if a lie is repeated often enough people will believe it. Neither the employers nor the employees in local government sought these laws, yet an ideologically driven Federal Government is imposing the laws on them. The employers did not choose them, the employees did not choose them, but John Howard has chosen to impose the laws on them whether they wanted them or not. For councils and their employees, it is not a work choice, it is no choice. The United Services Union [USU] and the New South Wales Government have called on councils to presume that they remain under the State system, at least until the High Court challenge is determined.

As a precaution the USU has called on councils to enter into referral agreements and common law deeds to protect any conditions that may be stripped away by WorkChoices. The Greens have supported the USU's call for councils to move to protect existing employee conditions. The USU has negotiated with the Local Government and Shires Associations [LGSA] for a set of referral agreements for councils to enter into with the union. Those agreements protect council employees' access to the State Industrial Commission for unfair dismissal and dispute settlement. Agreement has not yet been reached with the LGSA about how best to protect the other conditions, such as training leave and right of entry, that may be removed by WorkChoices. The Greens are committed to protecting the working conditions of council employees as these issues play out. The Greens support also the 28 June union day of action on WorkChoices.

I turn now to *Claymore Stories*. I was pleased to be invited to the launch of *Claymore Stories* on Friday 12 May 2006. It is a collection of stories conveying the living experiences of residents of the Claymore public housing estate. The launch was very well attended and the mood was overwhelmingly one of pride and celebration of community spirit and community achievement. The foreword to the collection by Dr Ione Lewis of the Australian Catholic University states:

> This collection of stories is inspiring and powerful in conveying how residents experience living in Claymore, a public housing estate in South Western Sydney. A strong theme in these stories is resisting the influence of oppression on residents' lives; for example struggling against the inertia of Department of Housing and the stigma faced by public housing residents from other communities. The power of having dreams and hopes for "a liveable environment" and fighting for human rights such as adequate and affordable housing is communicated in residents' stories and poems in an unforgettable way. The understated way in which these stories reveal the impact of socioeconomic class, power and powerlessness in residents' lives is a stronger advocate for the need to restore social justice and equity in Australian society that any textbook or expert could ever provide.

Things are not perfect in many of the State's public housing estates but Claymore shows that with real effort and by residents taking control of their own lives and suburbs things can improve. I pay tribute to the residents and to the proactive people at the Animation Project at Uniting Care, Burnside, and at the Society of St Vincent de Paul. I thank them all for the invitation to attend the launch, which I thoroughly enjoyed.

MOTOR NEURONE DISEASE

The Hon. KAYEE GRIFFIN [4.39 p.m.]: Motor neurone disease is a painful and debilitating disease that causes the nerve cells that control our ability to speak, walk, breathe, move and swallow to degenerate and eventually die. Motor neurone disease is the name given to a group of diseases that attack these nerve cells. Initially, a person may become aware of very mild symptoms which can include problems with walking, swallowing, slurred speech and holding things due to a weakness with the hand muscles. In some cases people may experience muscle twitching or cramps.

Unfortunately, because of the nature of the disease, it is often difficult to diagnose, and in most cases a patient has to undergo a number of tests before he or she is diagnosed with motor neurone disease. Researchers are not entirely aware of what causes motor neurone disease. However, there are many theories that include exposure to environmental toxins and chemicals, immune system damage, and premature ageing of motor neurones. Some cases of motor neurone disease are believed to be hereditary, but researchers around the world

are still working hard to fully understand this disease and why it occurs. Back in 1992 the *Sydney Morning Herald* ran a story on the disease that stated motor neurone disease was:

> ... a rapidly progressing and fatal illness that can strike at any time, but occurs mainly between the ages of 40 and 70. The cause is unknown, although in 10 per cent of cases it is genetic. It affects the nerve cells, or motor neurones, in the brain and spinal cord, causing their gradual death and resulting in immobility and eventual respiratory failure. The intellect and senses remain unaffected.

The Motor Neurone Disease Association of New South Wales was established in 1981 by a group of volunteers. These volunteers were responsible for the day-to-day running of the association until 1983, when an executive officer was employed. Today the organisation has a staff of 14 that comprises volunteers and part-time workers. These people are the backbone of the association. The volunteers work tirelessly to promote the organisation throughout New South Wales. They are responsible for organising fundraising events and establishing support groups, and they also assist people who have been diagnosed with the disease by providing emotional and physical support.

The motor neurone disease support groups are aimed at providing people with an outlet that enables them to meet with others to discuss their changing needs. The groups also ensure that people receive the right level of care and, in a lot of cases, give them the opportunity to reach out for support in dealing with and understanding their disease. Volunteers are often people who have an intimate knowledge of motor neurone disease. They are able to listen to and show that they care about the wellbeing of the person affected by the disease. In some cases they also assist with basic daily tasks that a person can no longer do, such as brushing hair, preparing meals, reading or writing, and they can accompany the person to social outings or to appointments.

Their important work ensures that proper assistance is given to people affected by motor neurone disease so that they can manage and understand their changing needs. During Motor Neurone Disease Week this year volunteers were out and about in the mornings to sell the association's symbolic cornflowers and wristbands. All money raised through these sales helps to continue to provide the association's valuable service to many people touched by this debilitating disease. The Motor Neurone Disease Research Institute of Australia also plays a pivotal role in attempting to combat this deadly disease.

The aim of the institute is to promote medical and scientific research into motor neurone disease, to determine the relative merits of research proposals for the study of motor neurone disease for the receipt of research grants, to administer research grants for the study of motor neurone disease, to facilitate the exchange of information about motor neurone disease, to affiliate with other bodies, either national or international, as will advance the cause of research into motor neurone disease, to raise funds to support research into motor neurone disease, and to be an Approved Research Institute by meeting the conditions of section 73A of the Income Tax Assessment Act.

Carol Hickson faced this illness with courage and determination. She recently passed away at the age of 60. Once again I extend my deepest sympathy to the Hickson family. Carol's family requested that donations be sent to the Motor Neurone Disease Association in her memory. I quote the words of the family:

> The unknowns of an illness can be frightening. The support of friends and loved ones is something very special to us and will never be forgotten.

The valuable work of both the Motor Neurone Disease Association of New South Wales and the Motor Neurone Disease Research Institute of Australia enables people to live in the hope that one day there will be a cure and until that day they will be well supported by the work of the association and the institute.

KIAMA ELECTORATE ROAD FUNDING

The Hon. DON HARWIN [4.44 p.m.]: In many ways the 2006-07 budget is a profound disappointment to people on the South Coast and, in particular, to those who live south of Wollongong. I refer to the Princes Highway, about which I speak regularly in adjournment debates as it relates to the stretch of highway south of Wollongong. Yesterday I asked Minister Roozendaal a question about a particular part of the highway between Oak Flats and Dunmore. At the moment a single-lane road runs between Oak Flats and Dunmore but it is dual carriageway at either end, so there is a bit of a missing link in the Princes Highway infrastructure on the South Coast.

Some years ago, during estimates committee hearings, Minister Scully promised faithfully that when the bypass at north Kiama was concluded work on this missing link would occur straightaway. Of major concern to me is the fact that the budget papers reveal the small amount that has been allocated for the planning project has been underspent. In this budget only $8.2 million has been allocated, which is grossly inadequate when taking into account the fact that the total cost of this project is $130 million. It amazes me that the budget papers contain a completion date of 2009. By 30 June next year only 15 per cent of the road's total costs will have been spent. People on the South Coast are being asked to believe that, in the short period that follows, their road will be delivered to them. That is a breach of faith. It is not what we were promised by Minister Scully. Minister Roozendaal, when responding to my question yesterday, did not give me an adequate explanation as to why this project had been slowed down and why he had walked away from Minister Scully's commitment.

I refer to the highway between Gerringong and Bomaderry. In December 2005 the honourable member for Kiama stated that the project was second on his priority list and that an announcement on the preferred route of the Roads and Traffic Authority could be expected in 2006, along with options for the Berry bypass. But the project does not appear as a line item in the 2006-07 budget papers. However, a very small amount—$0.5 million—has been allocated for planning the upgrade.

I agree with the Leader of the Opposition in the other place, who condemned the Government for moving too slowly on the highway upgrade. This upgrade has to happen sooner rather than later. Over the past 10 years two studies have been completed of that very treacherous section of highway between Gerringong and Bomaderry. All that the Parliamentary Secretary for Roads, the honourable member for Kiama, has been able to deliver is a third round of public consultation, which is nothing more than an attempt to be seen to be doing something before the election. It is a substitute for doing something.

Finally I refer to the Kiama ramps off the Princes Highway. Construction of additional access ramps to reduce through traffic in Kiama was an election promise of the honourable member for Kiama. On 10 May it was reported that new access ramps would be announced by the end of the month, with concept plans revealed to the public. The Government promised that the ramps would be completed at the end of 2007. I see from the budget papers that that date has been extended to 2008 and only $5 million of the $14 million Roads budget has been allocated to that project. So the people of Kiama will have to wait even longer. What the Government is doing about the Princes Highway is not good enough. It needs to get its act together.

MR PATRICK MOORE

Mr IAN COHEN [4.49 p.m.]: Honourable members may be aware that a former Greenpeacer, Patrick Moore, is being used by the nuclear industry to tout nuclear power around the world, including in Australia. I thought it might be useful to outline some of his history. Patrick Moore was, indeed, one of a number of people involved in the founding of Greenpeace in Vancouver, Canada, in 1971 to protest against American testing of nuclear weapons in the Aleutian Islands of Alaska. He was on the first voyage of Greenpeace, during which he is credited with making the rather unscientific statement, "A flower is your brother." Moore held a number of senior positions in what became Greenpeace Canada, but his tenure was characterised by acrimony and feuds within the organisation. While in Vancouver he initiated a disastrous lawsuit against Greenpeace San Francisco, which he lost. When he finally left in 1986 few people in Greenpeace Canada, or globally, mourned his departure.

In the first few years after Moore left Greenpeace little was heard of him. It is believed he was involved with his father's clear-cut logging business on Vancouver Island and then with fish farming. Moore first surfaced as an anti-Greenpeace and anti-environmental movement crusader in the early 1990s, when he began to front the BC Forest Alliance of British Columbia. The alliance was created by the logging industry on advice from public relations firm Burson-Marsteller. Among other deeds, Moore made two television advertisements attacking Greenpeace that were aired at the top of high-rated television newscasts. His lies and half-truths so enraged people in the Canadian province of British Columbia that they created a special web site, *www.patrick moore is a Big Fat Liar*.

Moore has also lashed out at environmental groups campaigning against salmon farming that damages ecosystems and harms wild species. He has attacked Greenpeace and other groups for campaigning against polyvinyl chloride [PVC] plastics that emit dangerous chemicals and against genetically modified crops, while fronting for industry groups that promote those anti-green products. Promoting nuclear power is Moore's latest cash cow. According to the *New York Times* of April 24 2006 the Clean and Safe Energy Coalition, of which Moore is a spokesman, is funded entirely by the Nuclear Energy Institute, the trade association of reactor

operators in the United States of America. Moore is quoted by the *New York Times* as saying that the coalition would engage in "grassroots advocacy". He is doing nothing of the sort. He is trading on his long-passed Greenpeace credentials to tout anything he can in order to make a buck. To Patrick Moore I say: Get a real job!

Of the many people who can lay claim to having co-founded Greenpeace, Moore is the only one to have gone over to the industry point of view. Several other co-founders, including the late Bob Hunter, have branded Moore as the "Eco-Judas". According to Paul Luke, business reporter for the *Province Newspaper*, British Columbia:

> Judas Iscariot had the decency to hang himself after betraying Jesus. Moore... can't even be persuaded to shut his mouth.

Tzeporah Berman of Greenpeace International said:

> Patrick Moore has gone from being the guard dog of the environment to the lap dog of industry.

In 1996 Dr Leonie Jacobs of the University of Utrecht in the Netherlands, said:

> Patrick Moore may be a good marine biologist and a former founder of Greenpeace but he is presently paid by the timber industry to deliberately mislead the public and politicians about the acceptability of aggressive logging practices.

Chris Genovali of the Western Canada Wilderness Committee stated:

> Personally, each time I read something by this megalomaniacal crackpot I get the urge to hurl. Now he's peddling his propaganda and lies in the United States.

Monte Hummel, President of the World Wildlife Fund Canada, said:

> I have read Patrick's book, *Pacific Spirit*. It is not the work of a 'forest ecologist' but a disappointing blend of pseudo-science and dubious assumptions being used to defend clearcutting and the forest industry.

According to Paul George, Director, Western Canada Wilderness Committee:

> He habitually ignores the worst aspects of logging in his zeal to promote industry. It's difficult to say anything good about him.

Gavin Edwards of the Forest Action Network said:

> He is nothing more than an apologist for the timber industry.

Dick Dillman of Greenpeace San Francisco said of Moore:

> He's one of those guys I knew I couldn't trust from the first second I shook hands with him. I mean that literally.

According to Jonathan Mayer, fish biologist and former employee of Patrick Moore:

> When asked why he started a fish farm, Patrick replied: "To make money".

Bob Hunter, co-founder of Greenpeace and CityTV reporter, said:

> He's taken a job schlepping for the stumpmakers.

Patrick Moore will be visiting Australia soon and touting on behalf of industry groups, particularly the nuclear industry. He obviously has a flawed history. He runs an environmental consultancy called Greenspirit Strategies and is a highly paid hack for the Canadian forest industry. He last visited Australia in early 2006, on a trip paid for by the Vinyl Council, to discuss the merits of PVC. Moore has said that global warming and the ice caps melting is a positive development because it creates more arable land and that the use of forest products drives up demand for wood and spurs the planting of more trees. Moore has been faulted historically. He is not a spokesperson for the environment; he is a reckless industry front person. I hope that those in positions of power will note this man's false credentials.

JOHN MARSDEN

The Hon. PETER BREEN [4.54 p.m.]: During debate in the House earlier today on the Drug Misuse and Trafficking Amendment (Hydroponic Cultivation) Bill, Reverend the Hon. Fred Nile said:

> I have never used any illegal drugs, and I have never smoked cigarettes or used alcohol.

The honourable member is to be commended for his virtue, and I am the last person to deny him a place in the sun on account of his sobriety. But I do object to his denouncing sinners, as he did last night in the House when he attacked my old friend John Marsden. Unlike Reverend the Hon. Fred Nile, Mr Marsden was a pot-smoking poofter, and proud of it. It is an insult to the memory of the man that his badge of honour should be judged as being somehow disgraceful and dishonourable. I have no idea what to expect of heaven, but according to one of the readings at John Marsden's funeral service,

> There are many rooms in my Father's house.

Marsden once told me that he was looking forward to the room that included a quiet gay bar and a bottle of Johnnie Walker whisky. That is not much to ask, and well within the remit of a loving God. One of the eulogists at John Marsden's funeral service was his brother Jim, who made the point that John was one of six children in a well-balanced family: three gay members and three straight members. Article 2358 of the Catechism of the Catholic Church refers to homosexuals, and states:

> They must be accepted with respect, compassion and sensitivity. Every sign of unjust discrimination in their regard should be avoided.

An old friend of John's—he is also an old friend of mine—officiated at Marsden's funeral. He asked me not to name him because he has received so much hate mail since the funeral simply because he officiated at the service. He quoted from the *Words of Sacred Admonition by St Francis of Assisi*, and said:

> Such as a man is before God, that much he is and nothing more.

Reverend the Hon. Fred Nile attacked John Marsden and added his words of scorn and condemnation to those of several journalists. He is entitled to his opinion, but it is not one that he should be rushing to express so soon after the man has been laid to rest. I have always thought that a loving God is far more likely to judge harshly the sins of calumny and detraction than the sins of the flesh. Certainly John Marsden thought so.

Much of what Reverend the Hon. Fred Nile said about John Marsden is a matter of opinion. I suppose it is true that a pot-smoking poofter could also be described as a law breaker—more so prior to the law reforms of 1984. Whether the attacks on journalists during the eulogies to John Marsden were unfair is an entirely different question. Most of the attacks referred to allegations by a certain Paul Fraser that when he was a young boy in 1967 John Marsden interfered with him. I knew John Marsden in 1967 and I knew Paul Fraser. In his book *I Am What I Am* John Marsden said that Paul Fraser's allegations against him were the must hurtful of all the false claims because Paul Fraser was the only person who ever claimed that John Marsden interfered with a prepubescent child. There was no support for those allegations. There was no corroboration from any other people at the school—children, teachers, counsellors and priests. This is an horrendous allegation, completely lacking in credibility, unsupported by corroboration, and conveniently recalled by Mr Fraser some 30 years after the alleged events—and not inconsistent with the enactment of the victims compensation legislation.

I tried to give the allegations some perspective when I spoke to several journalists, but all my information was ignored. Barrister Michael Lee wrote a letter to the *Australian*, which was published yesterday, answering some of the allegations in relation to Paul Fraser. I commend that letter to the House. In the last paragraph of the letter, Mr Lee writes:

> It is a matter of great regret to all of John Marsden's friends and professional colleagues that these allegations continue to hound him after his death.

I emphasise the fact that I spoke to several journalists about the allegations. As I have said, I knew both John Marsden and Paul Fraser in 1967. Nothing that I said was published, not because it was not true but because it was not consistent with the story that the journalists were trying to promote. I reject absolutely any suggestion that John Marsden interfered with this person. His friends reject it and his family rejects it. It is appalling that Reverend the Hon. Fred Nile continued to perpetuate the allegations by referring to them again last night in Parliament. I believe in free speech but I believe that freedom should be tempered by the truth. The allegations by Mr Fraser in this case are definitely untrue and without credibility.

GWYDIR SHIRE COUNCIL AWARD

The Hon. RICK COLLESS [4.49 p.m.]: It gives me great pleasure to praise the efforts of one of the State's newest shire councils. It was announced this week at the annual conference of the Shires Association of New South Wales that Gwydir Shire Council has won the much coveted A. R. Bluett Memorial Award. Every year the A. R. Bluett Memorial Award recognises two councils that have achieved the greatest relative progress

in the State. It has been operational since 1945 and is recognised as the greatest accolade a council can achieve. The A. R. Bluett award was established in 1944 by local councils of New South Wales as a memorial to Albert Robert Bluett, who died in April of that year. He had been an outstanding figure in local government and, prior to his death, had been the secretary and solicitor to the Local Government and Shires Associations of New South Wales for some 30 years.

Following A. R. Bluett's death in April 1944 councils in New South Wales decided to subscribe to a fund as a permanent memorial to his work. The funds raised were invested and the income used to acquire bronze plaques, suitably inscribed, for presentation each year to councils that were considered to have made the greatest relative progress during the previous year. One award is made to a council with membership of the Local Government Association and one to a council with membership of the Shires Association. Gwydir Shire Council was formed in March 2004 by the voluntary merger of Bingara and Yallaroi shires with 40 per cent of the former Barraba shire. The new council came into operation on 1 July 2004 and the first elections were held in September 2004. The Shires Association has praised the co-operative approach the former councils took to the union, the efforts made to communicate with stakeholders over a vast 9,000 square kilometre area and the responsible leadership taken by the former administrator, council management and the new council.

I will outline some of the factors that influenced the decision to present Gwydir council with the award: convening community meetings and establishing a network of community contact people across the new shire as a conduit between distant local communities and council; the adoption of a management plan based on council's sustainability plan; the implementation of a new salary system and information technology system for the combined council; the adoption of an equitable rating system encompassing the new shire; the implementation of a high speed Government Wideband Internet Protocol to interconnect all of council's separate locations and its people; and the expansion of the Gwydir learning region to address learning needs of residents and council staff, and as a way of promoting social cohesion, revitalisation and economic development.

The council also provided community service initiatives such as a one stop shop, a mobile pre-school service and expanded Youth Week celebrations; implemented economic development initiatives in Bingara and Warialda to promote tourism and residential development; completed important landcare projects involving riparian zone protection, salinity reduction and increasing landholder awareness of noxious weeds control and biodiversity conservation; instituted a $450,000 program to upgrade five community halls, parks and community facilities; provided new Rural Fire Service and State Emergency Services buildings; provided new water supply and sewerage augmentation works at Warialda and Gravesend; and allocated $4.6 million for roads, bridges, drainage and footpath works.

Council incurred a significant financial deficit in its first year of operation as a result of extraordinary establishment and other unforeseen costs. To its credit, council rose to the challenges of structural reform, despite the limitations of marginal financial resources and the large geographically remote area. I congratulate the mayor, councillor Mark Coulton, the General Manger, Max Eastcott, and the councillors, staff and the community of the Gwydir Shire Council on achieving such a fantastic result. The award is all the more significant given that councillor Mark Coulton was elected to Gwydir Shire Council at the September 2004 local government elections. Such an achievement by a new councillor in his first term with a new council is unprecedented New South Wales. I offer my congratulations to councillor Coulton on this achievement. I wish the council well with the challenges it will no doubt face in the future during this period of significant change.

[*Debate interrupted.*]

SNOWY HYDRO LIMITED SALE

Production of Documents: Further Return to Order

The Clerk tabled, pursuant to the resolution of 25 May 2006, documents relating to a further order for papers regarding Snowy Hydro Limited received from the Director General of the Premier's Department, together with an indexed list of documents.

ADJOURNMENT

[*Debate resumed.*]

Motion agreed to.

The House adjourned at 5.05 p.m. until Tuesday 29 August 2006 at 2.30 p.m.