

# LEGISLATIVE COUNCIL

Tuesday 5 September 2006

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**The Chair of Committees (The Hon. Amanda Fazio)**, in the absence of the President, took the chair as Acting-President at 2.30 p.m.

**The Acting-President** offered the Prayers.

## INSPECTOR OF THE POLICE INTEGRITY COMMISSION

### Report

**The Acting-President** announced the receipt, pursuant to the Police Integrity Commission Act 1996, of the annual report of the Inspector of the Police Integrity Commission for the year ended 30 June 2006.

**The Acting-President** announced further that it had been authorised that the report be made public.

**Report ordered to be printed.**

## ASIAN ELEPHANT IMPORTATION

### Motion by Ms Lee Rhiannon 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 all documents in the possession, custody or control of the Minister for the Environment, the Department of Environment and Conservation, the Minister for Primary Industries, the Department of Primary Industries and the Zoological Parks Board of New South Wales relating to the importation of five Asian elephants from Thailand to Taronga Zoo and the housing of the elephants in Taronga Zoo's new elephant enclosure, including but not limited to documents relating to:

- (a) the cost of importing and housing the elephants and any associated public relations campaigns relating to the elephants,
- (b) animal welfare reports on the elephants, including isolation of the male elephant, and the impact of them living at Taronga Zoo,
- (c) Taronga Zoo's conservation breeding program for the elephants,
- (d) the health status and plans for Taronga Zoo's existing elephants,
- (e) mooted plans to bring back elephant rides,
- (f) the permit from NSW Department of Primary Industries to exhibit the elephant,
- (g) the cost and construction of the new elephant enclosure,
- (h) correspondence between the Zoological Parks Board of New South Wales, the Minister for the Environment, the Minister for Primary Industries or their responsible departments and the Federal Minister for the Environment or his responsible department, and
- (i) any document which records or refers to the production of documents as a result of this order of the House.

## LEGISLATION REVIEW COMMITTEE

### Report

**The Hon. Penny Sharpe**, on behalf of the Chairman, tabled the report entitled "Legislation Review Digest No. 10 of 2006", dated 5 September 2006, together with minute extracts for digest No. 9 of 2006.

**Report ordered to be printed.**

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

**The Hon. Eric Roozendaal** tabled, pursuant to Standing Order 59, a list of all papers tabled in the previous month and not ordered to be printed.

### **PETITIONS**

#### **Blue Mountains Forests Hunting**

Petition requesting the House to remove Newnes, Ben Bullen, Hampton, Jenolan, Nullo Mountain and Coricudgy State forests from the list of New South Wales forests declared for hunting for the purposes of the Game and Feral Animal Control Act 2002, received from **Mr Ian Cohen**.

#### **Same-sex Marriage Legislation**

Petition opposing same-sex marriage legislation, received from **Reverend the Hon. Fred Nile**.

#### **Snowy Hydro Limited Sale**

Petition 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 **Ms Sylvia Hale**.

#### **Unborn Child Protection**

Petition requesting statistical reporting of abortions, legislative protection of fetuses of 20 weeks gestation, and availability of resources for post-abortion follow-up, received from **Reverend the Hon. Fred Nile**.

### **BUSINESS OF THE HOUSE**

#### **Postponement of Business**

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

### **PAEDOPHILE PAROLE AND CHILD PROTECTION**

#### **Adjournment (Standing Order 201)**

**The ACTING-PRESIDENT:** I have received from the Hon. Catherine Cusack a notice under Standing Order 201 of her desire to move the adjournment of the House to discuss the following matter of urgency:

The Government's failure to protect children from child sex offenders.

**The Hon. CATHERINE CUSACK** [2.44 p.m.]: The past week has been an absolute revelation for the community, the Parliament and, it would seem, most of the Government, including the Premier, the Minister for Corrective Services and the Minister for Police. Over the past week the case of John Lewthwaite has revealed just how insipid and weak our so-called system of managing and monitoring child sex offenders and child murderers is. We ought to discuss these issues as a matter of urgency. Indeed, I cannot imagine any issue more urgent and deserving of debate. The then police Minister Paul Whelan, in his media release of 30 May 2000, told us that the establishment of a child sex offenders register was an essential tool for policing. He said:

The new law will put paedophiles on notice. The police will know where they live, where they work and what car they drive. The register will give the police another tool to target reoffenders.

In October 2001 Mr Whelan announced that more than 2,500 convicted paedophile's and sex offenders would be entered onto the register and that it was expected a further 400 would be added each year. That was all we knew about the register until late last year when, like a dentist extracting a tooth without anaesthetic, the Legislative Council forced the Government to release the Ombudsman's legislative review of the operation of the register. Police Minister Carl Scully had been sitting on that review, even though the Ombudsman and the Act required

him to table it as soon as practicable. It was then we learned that all of Mr Whelan's figures were wrong and that the reoffending rate of offenders on the register after just two years was one in seven.

Last week we discovered the true extent of the lies the Government has been telling us about the effectiveness of the child sex offenders register. We were reminded why secrecy is intrinsically a bad policy. We learned that not only is the truth about paedophiles being kept from ordinary families, but it is also being kept from operational police. Indeed, we were shocked to learn for the first time that fewer than 200 people in New South Wales are allowed to access the database of information about paedophiles—and none of those people is on patrol, monitoring their behaviour. In the case of John Lewthwaite, Carl Scully is quoted in the *Sydney Morning Herald* as saying:

It took the police two hours to realise that the person they had arrested was of great significance.

But that is not true. They had not arrested John Lewthwaite at all. It was two hours after they took his details that they realised he was a person of great significance, and then they had to return to arrest him. They had no idea who John Lewthwaite was. That highlights the great flaw, the great lie, in the assurances given to us by the Government. One explanation was that the police officers who confronted Lewthwaite were "too young to remember the 1974 publicity surrounding his initial arrest". Heaven help us! Are the police supposed to rely on old media reports for information? The whole point of the register was to solve this problem. Clearly, it has not.

Because local police cannot access the database, the child sex offenders register cannot be used as a tool for police to monitor paedophiles and prevent reoffending. Its value lies in assisting detectives to locate paedophiles after they have committed a further offence. This, of course, is the old Carl Scully story—fix when fail. But what price failure? We are not talking about a slow train or a congested road. We are talking about the innocence and lives of our children. We are talking about the right of all parents to protect their offspring. As President Bill Clinton said 10 years ago, when he mandated Megan's Law right across the United States of America:

We respect people's rights, but ... there is no greater right than a parent's right to raise a child in safety and love.

Last week we learned the truth—that all the promises made to us by the New South Wales Labor Party to proactively monitor paedophiles were just another sham! There is no system of monitoring or managing. There is a secret register. After all these lies and all the spin about child protection we are all supposed to say: Okay, we trust the Government, we trust the paedophiles, but of course we do not trust the community and we do not trust parents with information. What a disgraceful proposition! This motion is urgent because of the growing public demand for Megan's Law style reforms to arm parents with vital information to protect their children. Megan's Law honours the memory of seven-year-old Megan Kanka. I quote from the Megan Nicole Kanka Foundation web site:

Richard and Maureen Kanka thought that their daughter Megan was safe. The Kankas had lived for fifteen years in quiet, suburban Hamilton Township, New Jersey. A family of five, they worked hard, paid their taxes, believed in God, charity, and the goodness of others.

On July 29, 1994, Richard and Maureen had their lives shattered when their 7-year-old daughter Megan was lured into a neighbor's home with the hopes of seeing his puppy.

Shortly after, 30 yards from her front door step, Megan Kanka was raped and murdered.

Unknown to the Kankas a convicted sex offender lived across the street. The murderer had already served six years in prison for aggravated assault and attempted sexual assault on another child. "We knew nothing about him", says Maureen Kanka. "If we had been aware of his record, my daughter would be alive today."

I remind honourable members that this man was not a stranger, and everything that Megan's parents taught her about stranger danger would have been useless against this clever, cruel and remorseless predator. In defence of this murder his lawyer argued that he did not lure Megan to see the puppy. It was claimed that Megan asked to see the puppy. Somehow it was seven-year-old Megan's fault because she asked to see the puppy. But this was just another disgusting lie. Megan knew nothing of any puppy. The lie was an attempt to hide the calculating and the manipulative behaviour that led to her rape and murder. This lie highlights yet again how dangerous and remorseless these people are. Chapter 19 of the Wood royal commission on the management of the paedophile clearly states:

The general consensus is that paedophiles cannot be cured only managed and that offending only ceases while the offender is imprisoned.

There is a mistaken belief in our community that paedophiles are very sick people or mentally ill people, that they are pathetic and that they are to be pitied. This is a dangerous misconception. It is true that some paedophiles may have a mental illness or other disabilities, but that is not the cause of their offending behaviour. In last Saturday's media we saw photographs of the Victorian paedophile and his disgraceful collection of children's school uniforms, which he had stolen from surrounding schools. I was at Sydney Airport when I heard the public openly discussing how disgusting the photos were. The paedophile involved virtually thanked police for arresting him because he felt that he would soon be unable to resist the urge to assault a child. It is a behavioural disorder that manifests itself in a total lack of empathy for victims, which is reinforced with every perverted thought and action experienced by the paedophile.

There is one small exception to the rule, one small window of opportunity with sex offenders, and that is juvenile sex offenders provided they are subject to intervention at the earliest possible stage of their offending. It is important to note this exception because the test of how genuine the Lemna Government is about stopping paedophiles and saving hundreds of potential victims is its willingness to act at an early stage of offending behaviour to turn it around. I am sorry to inform the House that the Government fails this test as well.

Not only does the Government have no programs whatsoever, but on the weekend the Minister for Police, Carl Scully, dismissed as bizarre an Opposition proposal to pilot two secure residential facilities for the intensive rehabilitation of offenders under 16. I will tell honourable members what is bizarre: it is the inability of families of boys who are victims of sexual abuse who have started to display inappropriate behaviour to get any help for that boy until he has committed a serious indictable offence. The Government's attitude is fix when fail and wait until people get really hurt. The behaviour of the Minister for Police and the Premier has been bizarre. Both of them have said that they would want to know if a convicted paedophile moved next door, but what they do not tell the public is that, unlike the public, they would be told if a paedophile moved next door. Both the Minister for Police and the Premier have special security arrangements to ensure this. These are sensible precautions, but please do not try to pretend that they are not in place and that they are in ignorant bliss like everyone else because they are not. They are privileged. It is the rest of the community who is not informed and who deserves to be informed about potential threats to their children.

Yesterday the Minister for Police spent time on Ray Hadley's radio program expressing his dissatisfaction with the police handling of the Lewthwaite case, as if it was everyone else's fault and had nothing to do with his Government. Indeed, the Minister was in an ebullient mood cracking jokes and bragging about what he would do if he discovered that a paedophile moved next door. This is what he told Mr Hadley:

I'd want to know that he was in there and I'd be coming over and saying "Ray, let's get this bloke, let's get the fire hydrants on him and let's get the rest of the cul-de-sac and drive him out of town. That's what I'd do as a father, and what you'd do as a father. I'd be horrified if I had a paedophile next door."

The behaviour and performance of the Minister for Police is beyond bizarre: it is frightening. But even worse was his performance on the weekend when he and his staff telephoned crime victims around Australia in an effort to drag them into a political campaign on behalf of the Labor Party to criticise the Liberal-Nationals policy proposals. Have those people not been through enough without being manipulated by the Labor Party to help in this way? How dare he ask victims of crime to exploit their tragedy as a political shield for him and his Government's pathetic failure to protect our children. I call on all members of the House to support the motion. Nothing is more topical and more urgent today than this motion.

**The Hon. TONY KELLY** (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [2.54 p.m.]: This matter is important, but not urgent for debate today. Under the ruse of an urgent motion the Opposition is trying to debate the introduction of a new law, Megan's Law. The proper course would be to introduce an appropriate bill, and that would give all honourable members the opportunity to prepare to debate it. Although this matter is important, it is not urgent, and this is certainly not the way to bring on such matter for debate.

The safety of our children is paramount, and it is important that the Government continue to do all it can to protect them from society's most evil offenders. That is why Megan's Law is the wrong choice to combat the scourge of paedophiles. Experience in the United States of America has shown that Megan's Law drives these criminals underground, which makes it harder for police to track them down and stop them from hurting our most vulnerable. It is only natural that parents feel they are entitled to know where sex offenders live and work. However, our system gives police the power to notify the community if they believe a person poses a risk to our children.

Our existing Sex Offender Register serves that exact purpose. The database has more than 2,000 offenders registered. The police know where they live and where they work, and they know what cars they drive. The person the Opposition is talking about was visited by police about a fortnight before this offence. Police need this information to monitor these people. To make the information widely available would force these criminals underground. My understanding is that in the United States of America about 60 per cent of these types of criminals are known, but the other 30 per cent to 40 per cent have gone underground. To adopt Megan's Law-style legislation would make the job of protecting our girls and boys nearly impossible. If child sex offenders commit any crimes, I want the police to be able to find them quickly, charge them and put them before the court. All available research on Megan's Law shows that it does not increase child safety or reduce repeat offences among child sex offenders.

The Government has created new laws to protect our children. This year a new Act commenced that is aimed at keeping serious sex offenders behind bars or under extended supervision if they posed a significant risk to the community. These laws are designed to protect the community from the most reprehensible sexual predators who, despite lengthy prison sentences, show no sign of rehabilitation and pose an ongoing threat. The Government welcomed the support of victims groups for the proposals, including Bravehearts Incorporated, the New South Wales Rape Crisis Centre and the Victims of Crime Assistance League. Under the Crimes (Serious Sex Offenders) Act 2006 the Attorney General, at the request of the Minister for Justice on the advice of the Commissioner of Corrective Services, will be able to apply to the Supreme Court for a continuing detention order [CDO] for repeat sexual offenders who have served, or who are serving, a term of imprisonment for a series of sex offences that carries a sentence of seven years gaol or more.

This application could be made six months before the offender's sentence expires. The Supreme Court will have the power to issue a CDO for a period of up to five years with no limit to the numbers of orders it can issue. The Supreme Court will be permitted to make an interim order for detention for a period of 28 days to enable the application to be heard. Alternatively, the Attorney General may apply to the Supreme Court for an extended supervision order [ESO] that would subject offenders to extended supervision and may require them to wear satellite tracking or electronic monitoring equipment; restrict them from particular places such as schools; accept home visits; participate in treatment and/or counselling, and/or therapeutic programs; comply with curfews; and restrict changes of name or address. An ESO could be issued for up to five years with no limit on the number of orders the court can issue.

Offenders subject to either a CDO or an ESO would be able to access legal safeguards, including legal representation and appeal processes. The alternative to Megan's Law has the potential to increase recidivism, thereby exposing children to additional danger. The 1997 police royal commission paedophile inquiry recommended against the introduction of Megan's Law. The Government will continue to build on what we have in New South Wales: very strong child protection legislation. Before anyone considers publicising names and addresses on the Internet they should listen to what the experts say. Hetty Johnson from Bravehearts, perhaps Australia's most authoritative voice on child sex abuse, said on Saturday that this proposal "makes paedophiles more dangerous, not less dangerous" because it drives them underground and forces them into hiding. Other experts have also commented. The Leader of the Opposition, the Hon. Michael Gallacher, stated on 20 June 2000:

The Opposition places on record the strongest reservations about an open Megan's law approach, particularly given the strong recommendations by the Royal Commission.

The honourable member for Epping, Andrew Tink, stated on 8 June 2000:

I put on the record that I have the strongest reservations about an open Megan's law approach, particularly because the Royal Commission has made strong recommendations in this regard that weigh very heavily with us.

A British member of Parliament, Angela Eagle, stated on 20 June 2006:

Above all, we need to protect children. I am not convinced Megan's law does it.

As I stated at the outset, the safety of children is important. This matter is important, but it is not a matter that should be part of an urgency debate. It should be debated in the normal way.

**Question—That the matter is urgent—put.**

**The House divided.**

**Ayes, 16**

Mr Brown	Mr Lynn	Mr Pearce
Mr Clarke	Reverend Dr Moyes	Mr Ryan
Ms Cusack	Reverend Nile	
Mr Gallacher	Mr Oldfield	<i>Tellers,</i>
Miss Gardiner	Ms Parker	Mr Colless
Mr Gay	Mrs Pavey	Mr Harwin

**Noes, 21**

Ms Burnswoods	Ms Hale	Ms Sharpe
Mr Catanzariti	Mr Hatzistergos	Mr Tsang
Dr Chesterfield-Evans	Mr Kelly	Dr Wong
Mr Cohen	Mr Macdonald	
Mr Costa	Mr Obeid	
Mr Della Bosca	Ms Rhiannon	<i>Tellers,</i>
Mr Donnelly	Ms Robertson	Mr Primrose
Ms Griffin	Mr Roozendaal	Mr West

**Pair**

Dr Burgmann

Mrs Forsythe

**Question resolved in the negative.****Urgency negatived.****CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT BILL****Second Reading**

**The Hon. TONY KELLY** (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [3.09 p.m.]: 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 proposes a number of minor or miscellaneous amendments to the Children and Young Persons (Care and Protection) Act 1998.

These legislative amendments aim to further benefit the children, young persons and families that the Department works with and to make the Act more workable for individuals and agencies operating under it.

The reforms in the Bill aim to reinforce a legislative framework which:

- ensures high quality children's services are provided in NSW in particular by providing for the regulation of out-of-school-hours care services;
- supports the Children's Court by strengthening and clarifying
- its existing functions;
- protects and clarifies the rights of children and young persons to legal representation;
- strengthens the protection for reporters;
- clarifies provisions for the benefit of children and young persons in out of home care.

The amendments confirm the Government's strong commitment to valuing children and protecting them.

**Ensuring quality children's services and out-of-school-hours care services**

The Government recognises that quality children's services are an important and critical issue for many families in NSW. Parents have a right to expect that the regulatory framework for children's services will ensure that children using these services are cared for in an environment that provides for the child's safety, welfare and well-being.

An important law reform introduced by the bill is the regulation of out-of-school-hours care services.

Currently in NSW there are some 1,500 out-of-school-hours care services providing care for over 37,000 children each year. Most of these services are community based. Quality improvement and funding of out-of-school-hours care services is primarily the responsibility of the Commonwealth. In more recent times, however, the Commonwealth has placed the onus on states and territories to regulate out-of-school-hours and other child care services.

The NSW Government recognises that these services make a vital contribution to balancing work and family responsibilities for many families in NSW. We welcome the Commonwealth's expansion of out-of-school-hours care places, noting, with some disappointment, delays in delivering these much needed places. However, as child care services play an increasingly vital role for working families, the Commonwealth is refusing to recognise the escalating cost of regulation to states. NSW spends around \$5.5 million every year regulating child care services.

This is of concern to NSW and we will be calling for a fairer distribution of the burden of child care regulation at the Community and Disability Services Ministerial Council in July.

The NSW Government has developed a model of regulation which will help strengthen the safety of child care services in NSW. It is a model of regulation which will balance the need for appropriate service standards with the need to maintain flexibility and viability for these much needed services.

The bill introduces a new chapter in the Children and Young Persons (Care and Protection) Act 1998—chapter 12A—which provides for the establishment of a regulatory framework for out-of-school-hours care services. The bill provides a broad definition of out-of-school-hours care services that includes:

- attendance by school aged children;
- attendance by children that are enrolled in a school but are not yet attending school;
- attendance by school attending children being cared for during school holidays;

The bill provides for regulations which may, when made, prescribe the requirements that an out-of-school-hours care service in NSW will need to meet. While the specifics of a regulation are yet to be finalised, this Government is strongly committed to consultation in this regard.

These include:

- compliance with minimum standards;
- registration of people providing out-of-school-hours care services;
- probity checks;
- variation, suspension and revocation of registration.

The bill also makes other amendments in relation to children's services.

The bill amends section 208 by allowing for two authorised supervisors to be named on a children's service licence. At any given time however, only one authorised supervisor will have the overall responsibility for the service. This amendment will allow for job sharing by allowing for two authorised supervisors, improving both employment and recruitment opportunities.

The bill extends the application of current provisions for probity checks to all persons over 14 years residing at the home of the family day carer or home based carer.

This package of reforms for children's services strengthens the Act in small but significant areas and provides for regulation of out-of-school-hours care. It continues the Government's strong commitment to the vital area of children's services in NSW.

#### **Supporting the Children's Court by strengthening and clarifying its existing functions**

In order to facilitate the conduct of the Children's Court, the bill contains amendments to chapter 5 of the Act—which relates to the Children's Court proceedings.

The bill identifies the workload and pressure placed on the Children's Court and aims to address the associated problems this has caused.

For instance, while the Director General may comply with the requirements of the legislation to file an application for an extension to an emergency care and protection order before the order expires, there may be no control over when the application may be heard—due to commitments and workload of the Children's Court. This can mean that the order can expire before the application is heard and children and young people may have to be returned to situations that place them at risk of harm because of a legal technicality.

The bill rectifies this situation by amending section 46 to make it clear that if an application for an extension of an emergency care and protection order is filed prior to expiry of that order, the order will remain in force until the Children's Court determines whether the order should be extended. The proposed amendment preserves the character of an emergency care and protection order as having a limited lifespan and at the same time accommodates difficulties created by the workload of the Children's Court.

In certain cases it may not be known at the time of filing the care application, what kind of final care orders should be sought for the child or young person. This becomes more apparent as proceedings progress and particularly after assessments are conducted. An amendment to section 61 provides that applications for care orders can be varied before the court makes a finding that the child or young person is in need of care and protection.

Section 71 of the Act concerns consideration of whether a child or young person's basic physical, psychological, or educational needs are not being met or are likely not to be met as a ground for whether the child or young person is in need of care and protection. The bill proposes that this section also apply to primary care givers.

Currently the section applies only to parents and does not recognise situations where children or young persons are living in out-of-home care with grandparents or other extended family. The amendment will ensure that should such arrangements fail to meet the child or young person's basic needs, then it is open to the court to find the child or young person to be in need of care and protection.

The Children's Court has held that the phrase "the Minister or another person jointly" in section 79 of the Act prevents the making of an order allocating parental responsibility to the Minister for Community Services and grandparents jointly. The bill remedies this limitation by establishing that orders can be made which allocate parental responsibility to the Minister and to two other people jointly.

The bill ensures that a child who exhibits sexually abusive behaviour and has not been criminally convicted for such behaviour is not prevented from accessing a court ordered therapeutic program relating to the sexually abusive behaviour.

To avoid unnecessarily complicated arguments before the court about evidentiary matters, the bill spells out that the civil standard of proof—which is "on the balance of probabilities"—applies to all proceedings under the Act.

The bill affirms a well accepted legal principle, that where the Children's Court determines that the rules of evidence are to apply—section 93 of the Act—leave may be granted to a party to withdraw material or file new or amended material that complies with the rules of evidence.

In the interests of procedural fairness, the bill provides that a person making an application for rescission or variation of care orders under section 90, an alternative parenting plan under section 116 or a sole parental responsibility application under section 149, has to notify such persons as the Children's Court may specify about the applications. This will ensure that the Director General or other affected parties are kept informed of any applications that they may need to respond to.

The bill raises the maximum penalty that can be imposed under the Act from 100 to 200 penalty units or a maximum of \$22,000 when proceedings are taken in a Local Court. There are 17 offences in the Act which carry a maximum penalty of 200 units, however section 259 currently only allows 100 penalty units to be imposed when an offence under the Act or the regulation is taken before a Local Court. This effectively halves the maximum penalty that can be imposed for these offences.

A further important feature of the bill is the strengthening of our legal processes to protect the safety, wellbeing and welfare of children during care proceedings.

A new measure introduced by the bill into section 64 of the Act is the conferral of discretion on the Children's Court to control information released to a child or young person by ordering the Director General or a parent not to show or tell the child or young person of the application or any particular information in it.

Such an order may only be made if the court is of the opinion that psychological or other harm is likely to be caused to the child or young person, or it is considered otherwise detrimental to the safety, welfare and wellbeing of the child or young person to notify the child or young person of the care application or information concerned. This discretionary power must not be exercised by the court unless these anticipated effects on the child or young person outweigh the prejudicial effect of the child or young person being unaware of the application or information.

In the 1999 Supreme Court case of *Waters v. Pacific Publications*, the court commented that the prohibition on the publications of proceedings is limited to matters before the court. This limits the protection that should be afforded to children and young persons involved in care proceedings who may be further victimised by the publicity surrounding the reasons for their coming into care.

The bill remedies this limitation by imposing a prohibition on the publication of names and identifying information in relation to a child or young person involved in care proceedings from before any proceedings have commenced, until the subject child or young person is 25 years of age or dies before reaching that age.

This amendment reflects similar provisions in the Children (Criminal Proceedings) Act 1987 in relation to children's criminal proceedings.

By amendment to section 104 and 105 of the Act, the bill extends the general prohibition on the publication of identifying information and names of children and young persons who are involved in care proceedings, to out of court proceedings, such as counselling and preliminary conferences connected to the care proceedings. This amendment furthers the protection of children and young persons before the Children's Court to non-court proceedings.

#### **Protecting and clarifying the rights of children and young persons to legal representation**

The bill also makes a number of amendments to the model of legal representation of children and young persons before the Children's Court.

The bill raises the age at which a child will be presumed to be capable of providing legal instructions to a legal representative from 10 to 12 years of age (section 99(3)). This reform is informed by well accepted child development research and the experiences of child representatives that most 10 and 11 year olds have considerable difficulty in understanding the legal ramifications of their instructions and are unable to provide adequate instructions regarding the many complex matters that are dealt with in the care jurisdiction.



I am pleased to announce that the Legal Aid Commission, the Children's Court and the Attorney General's Department support these particular reforms.

The bill recognises that attending the Children's Court and listening to proceedings about traumatic family matters can be very stressful for a child or young person and in some cases may even lead to further abuse of the child. Amendments to section 99(3) of the Act address this concern by providing that a child or young person is not required to attend court solely to provide legal instructions, unless otherwise required to attend by the court.

To assist in preventing delays in court proceedings, the bill requires the court to consider the appointment a Guardian ad Litem at a much earlier stage of the proceedings than is currently the case. The proposal seeks for the court to turn its mind to the question of competency at the same time as the court is considering a person's capacity to adequately represent him or herself (section 98).

#### **Strengthening the protection for reporters**

The legislation currently provides a range of protections to persons who make reports to the department concerning children, including the protection of the reporter. The bill extends the current protections to the person who first drew attention to the risk of harm posed to the child or young person but did not make the report, by amendment to section 29 of the Act.

For example, a manager or a schoolteacher may supply information which is then forwarded to someone else who makes the actual report to the department. It is not clear in these cases who "caused" the report to be made and whether the protection under the Act would extend to the person who first drew attention of the risk of harm posed to the child or young person.

The bill also provides necessary clarification that statutory bodies, such as the Commission for Children and Young People, who subsequently obtain a report that it is suspected a child is at risk of harm, will be required to maintain the confidentiality of the reporter.

There are other instances under the Act where people can make reports to the department, such as a report of homelessness, and therefore the bill ensures that these people are also afforded the current protection given to reporters under section 29 of the Act.

These amendments are essential in encouraging the community to continue reporting children and young people who are at risk of harm.

#### **Clarifying provisions for the benefit of children and young persons in out-of-home care**

The bill clarifies provisions in the Act for the benefit of children and young persons who reside in out-of-home care.

A key feature of the bill is that it streamlines processes for a child or young person who is leaving or who has left out-of-home care and who wishes to access original documents and personal information.

The amendment to section 168 provides that a request for personal information and records by a child or young person who is leaving or who has left out-of-home care can be made orally or in writing. In addition to seeking information held by a designated care agency or authorised carer, the amendments provide that, a child or young person can make a request to the Director General, when he or she was in the parental responsibility of the Minister, to obtain records that the department may hold.

The Bill establishes that a child or young person's entitlement to original documents held on their file—such as a birth certificate, school records, medical reports—under section 169 of the Act, overrides the prohibition on releasing original documents in the State Records Act 1998. This amendment will give ownership of original and personally significant documents to their subject, rather than the State.

The Bill updates existing provisions in the Act and adopts the recommendation of the NSW Law Reform Commission, concerning consent to medical treatment of persons 16 years of age and older. It is acknowledged that the current prohibition on foster carers consenting to minor dental treatment for a child or young person that is not urgent is unduly restrictive. The Bill removes this restriction by allowing authorised carers to consent to dental treatment for a child or young person, involving minor surgery, such as root canal work and tooth extraction.

The Bill makes clear that the obligation to provide accommodation for a child or young person in out-of-home care rests with the Minister, only if the Minister has sole parental responsibility for a child or young person or parental responsibility in relation to residence (section 164).

Section 164 has at times been misinterpreted to mean that the Minister is responsible for the provision of accommodation when the Minister only has partial parental responsibility which does not include residence for the child or young person.

This amendment is in recognition that, in some circumstances, joint responsibility is simply not tenable. However, this does not mean that children and young people in the joint responsibility of the Minister and another person are precluded from other forms of assistance and support.

The Bill amends section 165 of the Act to allow guidelines to be published for the granting of assistance to a child or young person leaving out-of-home care.

#### **Consequential amendments**

Other consequential amendments in the Bill include:

- better locating section 47 to Chapter 5, Part 2 in the Act to make it clear that an order prohibiting action is applicable to all care proceedings.

- amending section 256, to ensure consistency with the Children's Court Rules 2000, so that a document can be served upon a legal practitioner who has lodged an address for service.
- amending section 142 by inserting a reference to a 'young person' after "child" so as to make clear that Part 2 of Chapter 8 of the Act—out-of-home care by order of Children's Court—applies to young persons as well as children.

These amendments have been sought by stakeholders and consulted on extensively.

They strengthen the Act and respond to the expressed needs of practitioners, individuals and agencies. More importantly they enable the Act to better meet its primary objectives: the care and protection of, and provision of services to, children.

I thank all those involved in the development and construction of the Bill and I commend the Bill to the House.

**The Hon. PATRICIA FORSYTHE** [3.11 p.m.]: The Opposition certainly does not oppose the Children and Young Persons (Care and Protection) Amendment Bill. The Opposition supports many aspects of the bill, many of which are well overdue. Members who have been in this House for a number of years would be well aware of the long history of this bill, which was introduced late in 1998. At that time it was accepted to be almost, if you like, a work in progress and the first step in moving forward to better protect children and young people. As a consequence of the long process of legislative review—I certainly recall debate at the time—the Opposition accepted the principles behind the bill and acknowledged that a number of aspects of the bill required further refining. The bill was a first step, a new philosophical approach, towards better protecting children and young people.

Since then in almost every Parliament, in almost every year, there has been a further amending bill. By and large, the amending bills were the result of ongoing and developing public policy, not knee-jerk responses to media comments of the day. Generally the amending bills had been worked through by the Department of Community Services, sometimes as a consequence of advice from the New South Wales Law Reform Commission, sometimes as a consequence of trends throughout Australia—as was the case following out-of-school-hours care changes—and sometimes as a consequence of work carried out in the States with the Commonwealth as the lead or key funding agency. However, the regulatory process belongs with each State.

For a number of years there has been debate on the regulation of out-of-school-hours care. Among other things the bill introduces a broad framework for the introduction of regulated out-of-school-hours care services. The bill also introduces a number of minor and miscellaneous amendments. First, it covers the framework for the introduction of regulations in relation to out-of-school-hours care, colloquially known as OOSH care. Second, it makes amendments to other children's services. Third, it clarifies amendments to the Children's Court and dealing with young people. Fourth, and in particular, it makes provisions in relation to out-of-home care.

I will address three elements of the bill. First, I acknowledge that the bill provides that on leaving out-of-home care a young person will be entitled to access original documents and personal information. The documents would record the young person's education, health records and other information that, as a consequence of the young person being under the care of the State for some time—at one stage known as a ward of the State—might have been part of State records and ultimately archived. The young person would not necessarily have had access to those documents.

I did not realise that that measure was in the bill until I read it today. After all, as the bill was introduced in the other place in May, it has been some months since I looked at it. Last night during the estimates hearings for the Community Services budget, the very last question I asked concerned what stage this issue had reached. I recall that when I was shadow Minister a number of key agencies frequently raised this issue with me, and I acknowledge in particular the effort and the work of Barnardos, who had focused on this issue.

Previously a young person, as a consequence of spending his or her first 18 years in out-of-home care as a ward of the State, may never have been able to access the sorts of records that other children in a normal family environment take for granted. Those documents include school records, school reports, medical records and a whole variety of matters that would otherwise be part of a child's so-called file.

As children in care are, if you like, a number within a system, they lose out on those records. The bill ensures that they will be able to access their medical history and find out whether they had received appropriate inoculations when they were young or whether there is any record of hereditary diseases. As a matter of course that material has not always been available to them. I recognise, and acknowledge that the Government is moving on that aspect of the bill, that that is logical and should have been dealt with many years ago—and I congratulate the Government on that.

The second element I acknowledge relates to out-of-school-hours care. Traditionally New South Wales has not regulated that matter, it is probably one of a few areas of children's activities that have not come under the purview of government regulation. It is one system of formal child care that has been on the radar for a number of interest groups, or the botherers, as my former colleague the Hon. Dr Brian Pezzutti would have called them—people who are concerned about that sort of issue.

Formal out-of-school-hours care is very important to parents in New South Wales, particularly working parents. The Minister said that 37,000 children access that care when they are not in child care or not at school. Traditionally we talk about OOSH care as being available for children aged 5 to 12, or maybe 5 to 14. Today in New South Wales there are about 1,500 out-of-school hours care services. Only five years ago there were about 27,000 children in OOSH care and only 600 services. The number of services has almost doubled to meet the gap in care arrangements for working parents, particularly for primary school children.

The service is needed mainly between 3.00 p.m. and 6.00 p.m. However, in many cases the reality is that it is needed between 7.00 a.m. and 9.00 a.m. as well. Out-of-school hours care facilities provide many services and are often responsible for the provision of food. The nutritional basis of the food provided to children and the care they are given are vital, so I do not for a moment downplay the importance of out-of-school hours care facilities. I recognise that the bill will put in place a framework for regulation. As shadow Minister I resisted the temptation to introduce a private member's bill to put such regulation in place.

The provision of out-of-school hours care is important to parents, whether they access them on a regular or casual basis and whether they are used for children with a disability or for any other purpose. We are taking the Government on trust in this area of regulation, so we must take all care not to price parents out of this service. For that reason I was cautious about moving down the path of regulation. Some honourable members might say the Government can step in and fund these services, but we know in reality that it will become more and more expensive.

I recognise the role and place for regulations but from a personal point of view I am concerned about overregulation. I recall the debate we had in this place in about 1997 about child care and the disallowance of certain regulations because on that occasion the Government had not done a proper cost benefit analysis and did not weigh up the benefit of regulations in the provision of better protection for children. I am sure the Government learned some lessons from that. As I said earlier, this principle of regulation is fine but we are taking the Government on trust. I refer to that part of the legislation that deals with probity. Proposed section 220 (a1) states:

the probity checks that may be made on all persons over the age of 14 years who, or who are proposed to, reside at the home of a person who provides a family day care children's service or a home based children's service.

As a matter of principle that makes some sense. If a person is providing care for other children—and family day care is a good example—we want to ensure that that person is providing a service in which children are given the full protection of the law. Last night during estimates committee hearings I was not convinced, despite all the probity forms that people are required to fill in, that the appropriate officers are reading them or regarding them as more than a paper-filling exercise. They are required to provide the checks and balances that we need in this system.

I read the Minister's second reading speech to establish why, in a public policy sense, the age of 14 was arrived at. What led the Minister to say that everybody aged 14 and over in a household where services were being provided must now be subjected to a probity check? There is no evidence of any public policy research. The Minister just said that that was the age they had decided on.

I raised this issue for a number of reasons. Today we heard about the police royal commission and the consequences of its investigations. It led to a lot of valuable research being done by many people into sexual assaults on young people and a number of things became obvious. There is no magic reason why the age of 14 was chosen, as it is possible for people much younger than that to assault other young people. We must separate young children from those who are truly troubled. Why have we chosen the age of 14? If a family has a child who should be subjected to a probity check there should be an onus on that family to report it, as I am not convinced there is any way in which the system will pick that up.

In itself the age of 14 does not mean anything. We must be conscious that it might create a gap and somewhere down the track a problem might emerge. Legislation should not be introduced as a knee-jerk reaction; it should be well thought out. I want the Government to do more in that area. If people are to fill out

forms and probity checks are to be made, we want an assurance that those forms will be read. We want appropriate checks and balances in the system to improve the safety and security of children and young people in New South Wales. I commend the bill to the House. I acknowledge that the Government is moving forward on child protection.

Last night in the estimates committee hearings I was delighted to hear the Minister say that the Government now has a policy in place for dealing with young people who are victims of neglect. Only time will tell whether such legislation is enacted. In the past the only time the Department of Community Services responded in this area was when there was physical or sexual assault, and something as fundamental as neglect always fell to the bottom of the heap. I hope that we are hearing more than rhetoric from the Government. If we are, I acknowledge and congratulate it.

**The Hon. PENNY SHARPE** [3.27 p.m.]: I support the Children and Young Persons (Care and Protection) Amendment Bill, which introduces a number of amendments to improve protection for children and young people in care. These amendments include changes to the operation of the Children's Court; clarifying the rights of children and young people in relation to their legal representation; better protection for those who report abuse; and, something about which I am pleased, ensuring access by young people in care to important documents, particularly their birth certificates, school records and medical reports.

Another part of this bill amends provisions relating to out-of-school hours care and other children's services. Out-of-school hours care is an essential service for working parents but, more importantly, it is a service that thousands of children access every day across this State. The bill strengthens the provision of those services through the development of regulations that will be made in consultation with key stakeholders in the out-of-school hours care area. Today I particularly wish to speak about changes relating to authorised supervisors of children's services and probity checks for home-based carers and others who come into contact with children.

The service provided by many child care centres and family and home-based child carers in this State is generally of a high standard. Dedicated and professional staff members are part of the reason; another is that a strong legislative and regulatory requirement ensures that the care given to children must be of a minimum standard. The Government has demonstrated its commitment to the setting of reasonable standards in children's services and their improvement, while mindful of the fact that some services run as community operations and others operate as businesses.

This legislation contains a number of proposals to refine and improve the operation of some child care services. They build on the children's services regulation that was introduced to regulate child care in 2004. One of the key proposals allows job sharing for authorised supervisors. Currently, only one person is allowed to be the nominated authorised supervisor on the licence for a child care service. That has meant that job sharing of this important position has not been available. Many of the most experienced child care workers are themselves parents who have returned to the work force following the birth of their own children. Having a young family of their own, they might not wish to work full time.

The wording of the Act has, until now, precluded them from taking on a part-time role as an authorised supervisor of a service. With this amendment the expertise and experience of those employees can be put to good use in this important supervisory role. The amendment requires that in order to maintain proper lines of responsibility in the service, no more than two people will be able to share the one position, and on any one day only one person may have overall responsibility of the service and be responsible for all the key duties of the authorised supervisor. That is an important check.

This is an important check. The change will be of great benefit to child care operators, who can have difficulty attracting qualified and experienced staff to their services. The job-sharing arrangements will provide a broader pool of highly trained and experienced workers who may be seeking part-time employment. I also welcome any employers who are willing to take on job sharing, as it provides another example of how these arrangements can work in practice.

A second important proposal in the bill is the extension of probity checking requirements in family day care and home-based child care services, a matter referred to by the Hon. Patricia Forsythe. The Act currently provides for checks on those involved in the operation and management of services. It is important that checks are carried out into the good character of all those who may come into unsupervised contact with very young children. This includes those who live at the home of the carers, such as spouses and children aged more than

14 years. In answer to the Hon. Patricia Forsythe's query about the age cut-off, I understand that 14 was chosen mainly because that is the age of criminal responsibility, which is an important consideration in the checking process. Providing for a probity check of these residents should ensure some peace of mind for users of the services either that both the carer and any young person or adult resident in the household has no record of relevant offences or that an appropriate risk-management plan has been implemented.

The amendments proposed by the Minister in relation to children's services will have positive benefits all round for these services in New South Wales. The amendments in relation to authorised supervisors, and family and home-based carers, which I support in particular, will provide good outcomes for the children of New South Wales. I congratulate the Minister on introducing these changes.

**The Hon. JOHN RYAN** [3.31 p.m.]: I am particularly concerned about the way in which the Children and Young Persons (Care and Protection) Bill will impact on matters before the Children's Court that are generally referred to as "care" matters. I state at the outset that the bill, which introduces new standards for out-of-home care, has been a long time coming. In 2000 when she was a member of this House, the now Minister for Education and Training gave a commitment to Parliament on this matter. On 12 October 2000 she said:

The Office of Child Care is currently preparing a report for the Minister on OOSH in New South Wales which will certainly canvass issues relating to national standards and their implementation, the voluntary code of practice that the services currently operate under, and future Federal Government funding of the services. The Government will consider the future of OOSH services on the basis of that report.

I do not know whether the Government ever received the report. The Minister gave that commitment in October 2000 and it is now almost October 2006. The Government has finally taken legislative action—and not before time—and is beginning to regulate an area that has no services. I am not necessarily one to make representations on behalf of the Greens, but I note that Mr Ian Cohen tried to introduce regulation in this area some time ago. During debate on other legislation Mr Ian Cohen attempted to introduce a series of amendments relating to the regulation of children's services. However, the Greens' attempts were frustrated by the Government and they were prevented even from raising the matter. I have not completed my research, but I think the Government was introducing legislation relating to the regulation of other child care services.

The Opposition of course supports the standards outlined in this long-overdue bill. However, I must make representations to Parliament about some issues that, although they are not concerns of the Opposition generally, came to my attention when I was the shadow Minister for Community Services and witnessed firsthand what happens with care matters in the Children's Court. In that role I had several experiences that gave me reason to question the Department of Community Services [DOCS] in making representations to the Children's Court. I must admit that in 90 per cent of cases DOCS is probably doing the right thing in bringing matters before the court. However, it ought not be regarded as having some higher knowledge in all circumstances or some degree of infallibility in terms of the matters it brings before court and their resolution.

The Association of Children's Welfare Agencies [ACWA] has told the Minister time and again that DOCS frequently brings matters to the Children's Court without obtaining proper briefings and recommendations. DOCS sometimes restores children who are in need of protection to non-performing parents two or three times, when it should not make the effort at all. DOCS should terminate the children's relationship with their natural parents and seek an alternative, such as adoption, for them. There is little doubt that DOCS does not pursue such options often enough, particularly in the case of very young children. Adoption could deliver a better outcome for such children, who should not be left with parents who will simply never be up to the mark. When a child is restored to non-performing parents for the second or third time, someone should ask some questions. It is a lot of work for DOCS to bring a matter before the court once, let alone a second or third time. Yet the ACWA informs me that that is what happens.

Two years ago when I questioned Dr Neil Shepherd during an estimates committee hearing he told me that there was a problem with the DOCS culture. He said that departmental officers did not know when to draw the line and were not inclined to do so. They were reluctant not to champion the rights of natural parents and pushed for children to live with their natural parents. I believe the community's view is that when a child is returned to a parent who is never going to get over a drug habit and will always return to his or her old ways and associations, it is the equivalent of allowing that child to play on a freeway among the traffic. We should take the tough decision and allow that child to live somewhere else where he or she might have half a chance of growing up in safety and security and get a decent upbringing. But, sadly, DOCS is reluctant to consider terminating the rights of natural parents and to look at the adoption option. In the past, adoption was considered

to be a phenomenal decision. However, nowadays adoptions can be so flexible that the rights of natural parents are not terminated and they can maintain contact with their children. DOCS should consider that alternative more often in some cases.

But the pendulum can also swing the other way, and I have seen DOCS prosecute cases against natural parents to an unnecessary extent. I am thinking particularly of a case that I have raised in the House several times. Today I will report the outcome. The case involved a father who was making representations to take over the care of his two young children, both of whom were under school age. The children had come into the care of DOCS because their mother had allowed one child to swallow illegal drugs while she was working as a prostitute and servicing a client in a motel. The mother not only allowed that incident to occur but, when confronted in hospital and asked to tell doctors what her child had done, appeared to be more preoccupied with making a case against the natural father, who had not been present for, or even aware of, what had occurred. She was reluctant to tell hospital staff what her child had ingested even though the child was then in a coma and fighting for life.

The matter eventually came before the courts and the father pleaded for the right to take his children home and look after them. DOCS had quite rightly removed the children from the natural mother. But it placed them in the care of a foster parent, and denied and frustrated completely the right of the natural father to assume care of his children. DOCS was concerned about the father because he had a significant criminal record—and I accept that it had reason initially to question his right to access the children. However, he put to the court—as he eventually put it to me—that he had made a startling change to his life. This was demonstrated by the fact that he was holding down a job, and had done so for several months. He had made numerous complaints to DOCS about the condition of his children and had urged the department to take action against his former wife, the children's natural mother.

As proof beyond doubt that the father should have been trusted, as a result of his application to the Supreme Court the Children's Court took the children away from him. He went to the Supreme Court and had the order overturned, and he now has custody of the children. He is now one of the stalwarts of the school that the children attend. He operates the school canteen. His children are attending school every day and progressing well. In every respect, he is a model dad. He continues to ring me and give me progress reports on how the children are growing up. It is obvious to me that this character is a phenomenally caring father notwithstanding his background. He shows enormous care and concern. He has done every parenting course he can possibly put his hands to, and he does so willingly. At one stage in his life he had a drug problem, and he submitted himself to a tight regime of drug testing, which he wanted DOCS to impose on the natural mother.

**The Hon. Ian West:** What is your point?

**The Hon. JOHN RYAN:** The point is that DOCS did not want this man to have care of his children, and indeed frustrated that contact at every step by using means that it proposed to strengthen by way of this legislation.

**The Hon. Ian West:** Are you suggesting DOCS deliberately went about doing that?

**The Hon. JOHN RYAN:** It certainly did. Not only did DOCS frustrate the father in having contact with his children and taking over their care, but it strongly advocated for the natural mother to continue to have care of the children after they had been taken out of foster care. Sadly, the mother still has an uncontrollable drug problem, she continues to act as a prostitute, and she organises people to belt up the natural father. She has continued in the life of crime, and would have been an utterly toxic and unhelpful influence in the children's life. That is the person that DOCS wanted these children to live with, and it urged the Children's Court to continue that relationship. The father did not have the money to get legal representation and DOCS did everything possible to frustrate his attempts to look after his children. DOCS has never admitted it was wrong, but clearly it was. Obviously I accept that from time to time it requires the wisdom of Solomon to know—

**The Hon. Ian West:** You are not suggesting they deliberately—

**The Hon. JOHN RYAN:** The Hon. Ian West is no longer making helpful interjections. Whilst it is obviously not possible for DOCS to be infallible, nevertheless it seeks to make life more difficult for this parent by strengthening the law. Sometimes the law can be abused. It is important for me, as a member of Parliament, to point out that that law may well work to the detriment of a good outcome if DOCS is not careful. Whilst I do

not have an alternative argument as to how the law ought to be framed, we need to consider that DOCS does not always operate entirely in the best interests of the children; sometimes that is because it is misinformed.

I believe that what was in the way of DOCS making a clear decision in the case I have just outlined is, first, the bulk of the staff who dealt with the matter were not well trained or highly experienced in the matter that was before the courts. Second, the natural mother of the children was a State ward and some of the people who had been dealing with her as a State ward had been advocating for her success as part of DOCS wanting to see State wards do well, so in a sense they had a conflict of interest. Eventually a legal representative was appointed to represent the children separately in court. The father asked me to give certain evidence on his behalf, so I went to the court to assist him. It staggered me no end that the legal representative for the children sat in the same room with the DOCS representative and basically asked Dorothy Dixers of the court on its behalf.

It was obvious to me that the 70-year-old lawyer who was acting as the children's representative in Campbelltown court did not thoroughly investigate the best interests of the children. For example, the lawyer had never spoken to the natural father to at least get his point view. In my view the lawyer was acting entirely under the instructions of the DOCS legal team. He was not a separate representative for the children; rather, he was another representative for DOCS. He went to lunch with the DOCS staff; he met with the DOCS staff. Nothing gave me the impression that the lawyer was in any way independent of the DOCS legal team.

**The Hon. IAN WEST:** Even if you are right, where are we going, John?

**The Hon. JOHN RYAN:** I do not know whether you have read this legislation, but it deals with that very issue. There needs to be a more thoroughgoing reform of how legal representatives for children in court are appointed. As evidenced in the case I outlined, it appears too easy for DOCS to recommend to the court who the legal representative ought to be. Frequently the representative is the same person over and over again, simply taken from a list. Often the person is a good friend of DOCS, and largely looks to DOCS for a briefing and advice as to what to do. They are not separate and distinct from DOCS. It is of particular concern in cases where the children are too young to even give instructions. These lawyers are nothing more than an extra advocate to the court.

**The Hon. Dr Arthur Chesterfield-Evans:** Another parrot.

**The Hon. JOHN RYAN:** That is right, another parrot advocating to the court the DOCS line. They ought to be more independent than that. The legislation makes changes with regard to how young people might give the lawyer instructions, where they are of an age to be able to do so. The legislation suggests that the children need not be required to attend the Children's Court, and that is probably for good reason. But it is a minor tinkering with an issue that needs a far more thoroughgoing reform. Children's advocates in care matters ought to be utterly independent of DOCS. They should not simply parrot the same line because they are, in effect, a failsafe mechanism. They are a safety valve to make sure that the advice being given to the courts on behalf of children is as it should be.

If the legal representatives simply represent the same opinion as DOCS because they do not have better advice, I do not think that is healthy. A number of onerous provisions are sought to be enacted in this legislation and I feel compelled to explain how they might operate. Schedule 1 [40] inserts new section 104A. Subsection (1) provides:

Exclusion of particular persons from proceedings

At any time while the Children's Court is hearing proceedings with respect to a child or young person, the Children's Court may direct any person (other than the child or young person) to leave the place where the proceedings are being heard

Subsection (4) provides:

The powers exercisable by the Children's Court under this section may be exercised even if the person to whom a direction is given is directly interested in the proceedings concerned.

That means that a natural parent can be excluded from hearing evidence about themselves or that directly impacts on them. It appears that the Children's Court has the right to do this. No other instructions are given as to the circumstances under which this phenomenal provision can be applied. Of course, it will only be applied when DOCS wants someone excluded. Nobody will ever be able to successfully move a motion that the DOCS legal team should be excluded while somebody says something to the court; it will only exclude natural parents. There probably are occasions when it is appropriate that natural parents be excluded. I do not deny that it is not

appropriate to have such a provision, but no guidance is given to the courts as to whether other instructions need to be given to the natural parent who is not present to at least find out what was said so they can respond. It is just a straight power of the court to exclude someone from the hearing, even if they are directly interested in the proceedings.

I am concerned about the wording of that provision. It certainly allows enormous scope for people to be excluded from a court. We ought not allow a provision such as that to be enacted without guidance being given as to the circumstances under which we expect it to be enacted. At the very least, it ought to be judged by the benchmark of what is in the best interests of the child. At the moment it appears to be a very broad and severe potential imposition on people wanting to bring matters before the courts.

Another provision of the bill allows exclusion of the general public from proceedings. That is possible now, but I understand that the new provision is much stronger. Quite often people come to court to support individuals involved in Children's Court proceedings. They are called support persons. It would appear that the bill provides that a natural parent, for example, cannot bring a support person to the court unless the individual obtains from the court specific permission to do so. For anyone who is not a person proceeding to attend as a support person there will need to be a separate and distinct hearing, at which the Department of Community Services will have the opportunity to veto attendance by the support person.

At the moment, the law works the other way round. For example, if I were before the court on a care matter that involved my children, I would have almost a right to bring a support person with me. That person, unless he or she would pose a problem to the way in which the court proceeds, would have a right to be there. Sadly, as a consequence of the bill, I would need to obtain specific permission every time I wanted to bring a person who is not directly interested in those proceedings. I am concerned that, without additional guidance, that provision also can be used to exclude people providing legitimate support before the court.

The bill contains a provision that, on its face value, would appear to entitle the media to hear Children's Court proceedings. At the moment the media have no entitlement to hear such proceedings. On the surface, the provision appears to give people from the news media an entitlement to be within the court precincts unless the court determines otherwise. I suspect that the new provision will entitle media people to be within the precincts of the court and to film people coming and going—as sometimes happens now. However, this provision seems to give media people the right to be in the precincts unless the Children's Court directs otherwise. I would expect, if the court is dealing with a matter of significant public interest, representation will be made to the court that those media people not only be not entitled to hear the proceedings but not entitled to be within the precincts of the court.

I cannot imagine why that provision is to be enacted, except to allow an increase in the powers of the court to exclude the media from being in any way present at the court. At the moment we have quite strong, strict liability laws regarding what the media can publish about care proceedings. They are, in fact, somewhat more draconian than they need be. Believe it or not, a person who hears something said before the court is in breach of the law if they then make representation to a member of Parliament about the matter before the court and disclose that it was their children that they are making representations about. A member of Parliament who then includes that material in a letter and mails it off to the Minister is also in breach of the law. That is the strict interpretation of the law, which imposes strict liability. There are no exclusions. However, I understand that the director general has discretion not to prosecute. The only reason that members of Parliament enjoy that privilege now is that the director general elects not to prosecute.

The bill imposes severe restrictions on people making representations to members of Parliament about these matters. I do not suggest that the law needs to be otherwise, but we must bear in mind that very strict laws already govern the proceedings of the Children's Court, and this legislation seeks to ramp up those provisions. The case being made by the Government to further ramp up those provisions is rather thin. It has not exactly made out its case; it has just said that the court needs this power. The Government has explained what the law will do. Before we give such phenomenal blanket power to the Children's Court to exclude certain people from even attending, and to exclude the media from being on the precincts of the court, the Government should make out its case.

I would like to know the view of the Legislation Review Committee on those provisions. If I were a member of the Legislation Review Committee, I would have been inclined to hold some hearings to have the Department of Community Services explain why it wants these new powers to be given to the Children's Court. They are severe powers. These powerful provisions can be used to override important rights of natural parents to



be at the hearing of matters concerning themselves. I do not think we should make a law of this nature without a full and proper explanation being given as to why those new laws are being enacted.

**Reverend the Hon. Dr GORDON MOYES** [3.54 p.m.]: I will have only a short time available to discuss this bill before the debate is interrupted and the House deals with other business. I speak to the Children and Young Persons (Care and Protection) Amendment Bill 2006 on behalf of the Christian Democratic Party. The object of the bill is to make a number of miscellaneous amendments to the Children and Young Persons (Care and Protection) Act in relation to the care and protection of, and the provision of services to, children and young persons.

The many and varied provisions of the bill seek to strengthen and clarify the application and operation of the Children and Young Persons (Care and Protection) Act 1998. Before I refer to some of the more salient aspects of the bill, I draw the attention of honourable members to the following facts, extracted from a report prepared by the Australian Institute of Health and Welfare entitled "Child Protection Australia 2004-2005". These facts provide us with a stark picture of the level and extent of issues in the realm of child protection in this nation.

The truth is that over the past six years the number of child protection notifications in Australia more than doubled, from 107,134 in 1990-2000 to 252,831. In 2004-05 the total number of notifications in New South Wales alone was reported at 133,636. It is said that some of this increase reflects changes in child protection policies and practices in jurisdictions, and could also reflect increased public awareness of child abuse. Such notifications are assessed by the relevant department to determine whether it requires an investigation; whether it should be dealt with by other means, such as referral to other organisations; or whether no further protective action is necessary or possible. An investigation is the process whereby the relevant department obtains more detailed information about a child who is the subject of a notification, and the aim of an investigation is to make an assessment of the degree of harm, or risk of harm, for the child.

After an investigation has been finalised, a notification is classified as "substantiated" or "not substantiated". A notification will be substantiated where it is concluded after investigation that the child has been, is being or is likely to be abused, neglected or otherwise harmed. The rate of children aged zero to 16 years of age who were the subject of child protection substantiation in 2004-05 ranged from 2.3 per 1,000 in Western Australia to a massive 14.1 per 1,000 in Queensland. New South Wales had a median rate of 6.1 per 1,000 during that time. Interestingly, in all jurisdictions girls were more likely to be the subject of a substantiation of sexual abuse. On the other hand, boys were generally more likely to be the subject of a substantiation of physical abuse.

In relation to out-of-home care, the number of children rose each year from 1996 to 2005, the period for which national data have been collected. The numbers in care increased by 70 per cent, from 13,000 at 30 June 1996 to 23,000 at 30 June 2005. In 2004-05 the rates of children in out-of-home care ranged from 3.8 per 1,000 in Victoria and Western Australia to 5.8 per 1,000 in New South Wales and Queensland. The rate of indigenous children in out-of-home care was more than six times the rate for other children. I speak with some experience on this matter because for the past 27 years, as head of Wesley Mission, I have been responsible for a large number of children in out-of-home care. I recall that in the late 1970s I inherited 134 children a year coming into care. Last year that number had risen to 5,500 a year in the care of either the full-time staff of the Wesley Mission or many hundreds of foster parents. This involves not only hundreds of staff but tens of thousands of ordinary citizens who make donations to provide the multi-million dollar budget for such a program.

For every set of data collected by the institute, it is clear that indigenous children were always overrepresented in the child protection system. For example, across Australia the rate of indigenous children on care and protection orders was higher than for non-indigenous children. This further supports the notion that special attention must be dedicated to exploring and addressing why indigenous communities are in relatively more precarious circumstances than are non-indigenous communities. In reflecting upon these statistics, my mind turns to one of the quintessential teachings of the Bible: to love your neighbour as you love yourself. What does it mean to love one another? It means to be patient, to be kind, and not to be easily angered. Love always protects. From a Christian Democratic Party perspective, our interest is protection of the most vulnerable in our society.

If those in positions of care and responsibility over children took better heed of this important principle, children around our country would find themselves in very different circumstances. As I have mentioned

previously, the bill makes a number of amendments to different areas touching upon the care and protection of children. As indicated in the second reading speech in the other place, the bill regulates out-of-school hours care services, supports the Children's Court by strengthening and clarifying its existing functions, protects and clarifies the rights of children and young persons to legal representation, strengthens the protection for reporters, and clarifies provisions for the benefit of children and young persons in out-of-home care. Rather than draw attention to each provision brought about by the bill I will point out some of the reforms brought in under each of these different subject matters.

I refer to out-of-school hours care. At present 1,500 out-of-school hours care services provide care for more than 37,000 children in New South Wales each year. Most of these services are community based. Honourable members may know that the Federal Government is responsible for providing out-of-school hours funding and places. However, it has become apparent that it is incumbent on States to regulate out-of-school hours care services. As a consequence of this responsibility, the bill introduces a new chapter into the Act that provides for the establishment of a regulatory framework for out-of-school hours care services.

**Pursuant to sessional orders business interrupted.**

## **QUESTIONS WITHOUT NOTICE**

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### **DISABILITY SUPPORT SERVICES**

**The Hon. JOHN RYAN:** I direct my question without notice to the Minister for Disability Services. Have the parents of a 13-year-old boy with autism written to the Minister in the last week explaining that the boy is now locked up in a ward at Westmead Children's Hospital and that they have relinquished him to State care because the Government did not supply them with enough support over the last two years? Why has the Government ignored their appeals over the past two years for help in the form of respect and support to assist them in managing his difficult behaviour? Why has the Minister not responded to the letter?

**The Hon. JOHN DELLA BOSCA:** I have received correspondence from the family. I have had it for about six days. In relation to the overall thrust of the honourable member's question, I agree with the underlying proposition by commentators in relation to similar cases that one of the things that is important in the provision of disability services and a better disability services system is to provide people with services as soon as they need them. A more flexible disability services system is the object of the Government's new Stronger Together 10-year plan to improve disability services so that they are able to provide respite, case management, and early and better therapy services as soon as practicable and as required.

Regrettably, the matter the honourable member spoke about in the media early today is an example of a family in more of a crisis than it would have been had it received the level of respite care, case management and therapy that Stronger Together will be able to provide when it is put in place. I underline that \$154 billion was rolled out in July this year under Stronger Together to rebuild the capacity of the system. The honourable member seems willing to use individual cases for political debate. I have said to him on numerous occasions—and it is on the record—he can raise individual cases with me. However, he prefers to discuss these matters in the media because he is frustrated that his party has no plan to improve the lives of people with a disability.

**The Hon. Patricia Forsythe:** Don't trivialise this case.

**The Hon. JOHN DELLA BOSCA:** I am not trivialising anything. I am not using vulnerable people as a political football. I can inform the House that the department has been working with the Woodhouse family and has offered them additional respite. I can assure the House that the department will do all it can to meet the family's needs. The Iemma Government developed the Stronger Together 10-year plan to provide families with more respite, more options and more accommodation. In these types of cases we will know that the family needs more respite care before it reaches crisis point, and I want to provide it. Stronger Together, backed by an additional \$1.3 billion over five years, was put in place after consultation with families like the Woodhouse family. I remind the House that the Opposition has offered no hope for this or any other family. It has no plan.

The Opposition has committed only \$69 million to support families with a disability, which is a miserly 5 per cent of what the Iemma Government will spend on improving disability services. Last week the Premier wrote to the Prime Minister urging the Commonwealth to re-engage and recommit to fairer disability spending

in the context of the Commonwealth's massive surplus and its capacity to do more. Regrettably, the New South Wales Opposition will not join the Government in calling on Canberra to match our plan. The Opposition has demonstrated that it has no plan and no guts to stand up to its Commonwealth colleagues. It is prepared to use vulnerable people as political footballs, rather than provide a proper plan to deal with the issues.

### NURSE RECRUITMENT

**The Hon. KAYEE GRIFFIN:** I direct my question without notice to the Minister for Health. Will the Minister inform the House on the progress of the Government's nurse recruitment program?

**The Hon. JOHN HATZISTERGOS:** As honourable members would be aware, an extra 233 nurses will start work in our public health system, after a successful mid-year overseas recruitment drive in the United Kingdom. Nurses have been recruited specifically to work in specialisations including emergency departments, operating theatres, intensive care and mental health. With the indulgence of the House, I digress to congratulate the Minister assisting me on Mental Health, Cherie Burton, on the birth last Saturday of her son, Joel Richard Murphy. I am advised that both mother and baby are doing well. I am sure that honourable members join with me in extending congratulations to Cherie and her family. Our advertising has been successful in promoting and recruiting nurses to rural and remote parts of our State. I am pleased to report that many of the nurses will take up positions in rural and regional hospitals.

I am advised that as of today new nurses will go to the Royal Prince Alfred Hospital, the Prince of Wales Hospital, Campbelltown, Westmead, Liverpool, Manly, Nepean, Sutherland, Rozelle, Sydney Children's, St Vincent's, St George, the Royal Hospital for Women, Port Macquarie, Orange, Lismore, Wyong, Ryde, Bowral, Coffs Harbour, Balmain, Wollongong, Sydney, Mona Vale, Long Bay prison hospital, Fairfield, Dubbo, the Children's Hospital at Westmead, Canterbury, Calvary, Wagga Wagga, Tweed Heads, Manning Base, Goulburn Base, Gosford and Concord. I am advised that three of the overseas nurses have already started work and the remainder will join the workforce in the coming months. I know the Opposition has previously been critical when we have announced overseas recruitment. The woefully costed Opposition policy compares glibly with the policy the Government has been following over a number of years.

The announcement by the Leader of the Opposition and the shadow Minister would leave us well short of the nurses we need in our hospital system. The Opposition promises fewer nurses over five years than we have recruited in the last 12 months. What is more, the Opposition's commitment to sack 29,000 essential public service workers will have grave consequences for front-line health care, particularly in nursing. I have said before that I would have preferred to be able to provide additional positions for locally trained nurses, but we have had to look overseas because the Commonwealth will not provide sufficient university places to train new nurses. The new overseas nurses are essential. I am sure that the hospitals and the communities in which they will be working will make them feel very welcome.

### JOHN LEWTHWAITE PAROLE

**The Hon. MICHAEL GALLACHER:** I direct my question without notice to the Minister for Justice, and Minister for Juvenile Justice. How many times did probation and parole staff visit child killer John Lewthwaite at his Arncliffe address? Are media reports correct that he has received no visits or supervision by Probation and Parole Service staff since 2002, despite his being on lifetime parole?

**The Hon. TONY KELLY:** I am advised that on 9 June 1999 the then named Parole Board released Lewthwaite on parole. The conditions of the parole order included a condition that the offender must be supervised by a probation and parole officer for a maximum of three years from the date of release. I am further advised that Lewthwaite fulfilled those parole conditions, which included refraining from alcohol and other special orders specific to his case. I am also advised that he elected to continue psychological counselling beyond the supervision period. I am also advised that Lewthwaite had been on the child protection register since 18 October 2001—almost five years. This was very soon after the Government established the child protection register. I am further advised that since that time he has been the subject of frequent visits from the officers of the St George Local Area Command. I am advised that the most recent visit was in August.

### NATIONAL PARKS AND WILDLIFE SERVICE TOWAMBA RIVER WORKS

**The Hon. ROBERT BROWN:** I address my question without notice to the Minister for Commerce, representing the Minister for the Environment. Is he aware that the National Parks and Wildlife Service recently

constructed an urban dam on a creek running into the Towamba River at Kiah on the New South Wales far South Coast; that the dam, following heavy rains, was desperately and deliberately breached by the National Parks and Wildlife Service to reduce the height of the dam, resulting in a catastrophic collapse of the dam; that tonnes of silt consequently were dumped into the Towamba River, with devastating effect on the depths of critical fish-breeding holes, and altered tidal flow in the upper reaches of the river; that the National Parks and Wildlife Service, although admitting its vandalism in a local newspaper, advised local people that the riverbed and the critical fish-breeding holes will not be restored and that the silt will "flush itself out over a period of time"? Will he advise whether any environmental impact statement was prepared for these works, whether any hydrological surveys were carried out, whether a civil engineering design or report on the proposed dam was prepared, or whether advice was sought from other government departments on the construction of urban dams? Will he assure the people of the far South Coast that the National Parks and Wildlife Service will immediately carry out a full restoration of the damaged area? [*Time expired.*]

**The Hon. JOHN DELLA BOSCA:** I am aware of the incident to which the honourable member refers. The work took place on a private property on the Towamba River near Kiah in April 2006. The work was done as an addition to a major threatened species recovery project being undertaken by the Department of Environment and Conservation, with technical advice provided by the Southern Rivers Catchment Management Authority. The project involves the restoration of wetland habitat that is adjacent to the Towamba River. The swamp had been degraded previously through drainage works, and the additional work involved in-filling of drains.

Following an unusually heavy storm, during which the area received extremely high levels of rainfall, and on the advice of the Southern Rivers Catchment Management Authority, some of the fill was removed to allow the water level to be lowered. I understand that verbal advice provided by the Department of Natural Resources during an on-site inspection is that the sediment from the site has not caused significant change to the streambed morphology of the Towamba River. An environmental impact statement was not prepared for these works, as any impacts would be minimal, and if they did occur, could easily be remediated. A site inspection was conducted last Tuesday involving officers from the Department of Environment and Conservation and the Department of Natural Resources. Temporary works to stabilise the area have been agreed, with additional rehabilitation works to be undertaken by the Southern Rivers Catchment Management Authority.

### YOUNG WORKERS PROTECTION

**The Hon. PENNY SHARPE:** My question is directed to the Minister for Industrial Relations. Will he advise the House on what the Government is doing to help young workers in New South Wales?

**The Hon. JOHN DELLA BOSCA:** Yes, I will. The Iemma Government plans to introduce new legislation to protect the working conditions of young people in New South Wales from the ravages of WorkChoices. In New South Wales more than 150,000 young people under the age of 18 are in formal employment. Eighty per cent of these young people work on a part time or casual basis, and most are employed in industries such as retail and hospitality.

The Iemma Government is determined to overcome the unfairness of the Howard Government's industrial relations changes by protecting the employment terms and conditions of young workers. Under new laws, regardless of whether a young person is employed under a State or Federal award, wages and conditions will have to be at least at the level provided by New South Wales awards and legislation. Young workers will not have to bargain individually to maintain their existing penalties, allowances, training pay and training leave. Importantly, under our legislation, there will be no approval mechanism, registration system or other regulatory burden on employers that will act as a disincentive to employing young people.

Young people find work rewarding as it provides independence, income, social recognition, and the opportunity to be self-reliant, exercise responsibility and develop new skills and friendships. But WorkChoices has dramatically altered the workplace for many people. In New Zealand, when laws similar to WorkChoices were introduced, the wages of young people fell by almost 50 per cent. WorkChoices removes protections and conditions that young workers were previously guaranteed. WorkChoices allows unscrupulous employers to set young workers' pay and conditions below minimum State and Federal awards, and strips away conditions. Unfortunately, it compels good employers to follow this path, if they want to remain competitive. That is why I describe it as a race to the bottom.

New legislation will prevent this from happening. Yet the Federal Minister for Employment and Workplace Relations, Kevin Andrews, claims these new laws will be unnecessary as there are already adequate protections under WorkChoices. Either he is blissfully ignorant of his own legislation, or he is deliberately misleading New South Wales families, or perhaps both. Section 194 of the WorkChoices legislation has no requirement for a minimum rate of pay for junior employees. Under WorkChoices, a large range of conditions and entitlements for young workers are simply not included. A base rate of pay is not protected. Saturday penalty rates are not protected. Sunday penalty rates are not protected. Public holiday penalty rates are not protected. Overtime is not protected. Rest breaks, annual leave loading and roster protections are not protected.

As the House can plainly see, and as New South Wales families already know, WorkChoices does not contain adequate protections for young workers—or, for that matter, any workers at all. Since the introduction of WorkChoices laws in March, the New South Wales Office of Industrial Relations has received 82,000 calls from confused and frustrated business owners, and workers who have had their conditions or entitlements removed, and every day we receive hundreds more. These are the same laws that the New South Wales Opposition passionately supports in lock-step. The Leader of the Opposition is committed to handing over New South Wales families to the unfair Commonwealth system, if he wins government next year.

The State Opposition has turned its back on New South Wales families and is not prepared to stand up for them. In contrast, the Iemma Government is using all its powers to curb the ravages of WorkChoices and ensure that New South Wales families get real protections. We have already introduced laws to protect front-line public servants from WorkChoices, and we are spearheading a High Court challenge to have these unfair laws overturned.

#### **SHELLHARBOUR HOSPITAL SPECIALIST SERVICES**

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I direct my question to the Minister for Health. Is it true that when specialists have been on holidays, other specialist positions at Shellharbour Hospital have had loads as high as 60 inpatients in addition to their loads at other hospitals? Is it true that surgical patients are admitted under specialist physicians because there are no surgeons or orthopaedic surgeons on call? Is it true that there will not be any more medical staff appointments until next July? Is it true that the Australian Medical Association Medical Practice Committee is to visit the Shellharbour Hospital to assess the situation, as one specialist physician has stated that the situation is unsafe? When will the Minister act to improve the roster for hospital specialists in this growing area of the Illawarra? What does he intend to do?

**The Hon. JOHN HATZISTERGOS:** That is a recycled question; it was asked yesterday during the estimates committee. To a large extent I answered that question yesterday and I refer the Hon. Dr Arthur Chesterfield-Evans to that answer. In addition to the information I provided to him yesterday, I advise that advertisements for staff specialists—or visiting medical officers, general physician—were advertised on 21, 24 and 26 August in local and national media with a closing date of 8 September 2006. Already an application for the position has been received, although the date for receipt of applications has not expired. It is planned that interviews will be held in conjunction with the next area medical-dental appointment advisory committee, which is scheduled to take place on 25 September 2006.

The area health management is continuing to work with clinicians to provide appropriate levels of care for the people of Shellharbour and the surrounding region. Already meetings have taken place with some clinicians, as I said to the Hon. Dr Arthur Chesterfield-Evans yesterday, to work through those matters. Otherwise, I refer the honourable member to the answer that I provided yesterday.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS:** I ask a supplementary question. Minister, what is happening about the surgical roster in addition to the physicians?

**The Hon. JOHN HATZISTERGOS:** I have already answered that question. If the Hon. Dr Arthur Chesterfield-Evans had listened to my answer, he would have found out.

#### **DEPARTMENT OF HOUSING FAIRFIELD OFFICE LEASE**

**The Hon. DUNCAN GAY:** I direct my question without notice to the Minister for Commerce. Who signed documentation of formal instruction to the Department of Commerce that the Department of Housing had decided to abandon the Department of Housing's office at Hamilton Road, Fairfield, in favour of new

accommodation? What discussions did the Minister or his staff have with any staff or associates of the Minister for Housing, or Joe Tripodi, on the question of suitable alternative accommodation in the area?

**The Hon. JOHN DELLA BOSCA:** In February 2005 the Government Leasing Service in the Department of Commerce was engaged by the Department of Housing to find leased accommodation in Fairfield. The Department of Housing occupied substandard premises at 1-3 Hamilton Road, Fairfield, and wanted better accommodation for its customers and staff. I am advised that before approaching the Department of Commerce, the Department of Housing had unsuccessfully sought new accommodation through BusinessLink. In a market with few options for a client seeking more than 1,000 square metres, a property in The Horsley Drive, Fairfield, satisfied the requirements of the Department of Housing.

To determine a fair market rental, a schedule of comparable properties was prepared and those properties were compared with The Horsley Drive property. The latter was found to offer a commercially competitive rental rate. In the interim, the Department of Housing also received an offer from its landlord at Hamilton Road to upgrade that property in return for an increased rental. I am advised that after considering advice from the Government Leasing Service about the broad commercial and financial terms available at The Horsley Drive, the disruption of an upgrade to the existing accommodation, and considering the quality of The Horsley Drive compared to Hamilton Road, even after an upgrade The Horsley Drive premises was preferred.

The six-year lease includes four months rent free and gross rental of \$268 per square metre gross plus GST—which was a commercially competitive rate. I have had no discussions about this matter with my colleague and friend the Hon. Joe Tripodi either at the time he was Minister for Housing or at any time thereafter.

**The Hon. DUNCAN GAY:** I ask a supplementary question. Minister, the key part of my question was: who signed the documentation of formal instruction? You did not answer that part of the question.

**The Hon. JOHN DELLA BOSCA:** I am not sure that I understand the honourable member's question. Perhaps he could repeat the critical part.

**The Hon. Duncan Gay:** Will you take it on notice?

**The Hon. JOHN DELLA BOSCA:** I just want to hear it again, please.

**The Hon. Duncan Gay:** Who signed documentation of formal instruction to your department that the Department of Housing had decided to abandon the Fairfield Housing Office at Hamilton Road, Fairfield?

**The Hon. JOHN DELLA BOSCA:** I will take that question on notice and respond as quickly as possible.

#### **DOUGLAS VALE HOMESTEAD AND VINEYARD, PORT MACQUARIE**

**The Hon. TONY CATANZARITI:** My question without notice is addressed to the Minister for Lands. What has happened to the historic Port Macquarie winery known as the Douglas Vale homestead? Are there any plans to preserve the homestead and plan for its future?

**The Hon. TONY KELLY:** Earlier this month, together with the honourable member for Port Macquarie, Robert Oakeshott, I visited the historic Port Macquarie winery on the Oxley Highway. We joined dozens of members of the Douglas Vale Conservation Group to announce that the Iemma Government would lease the homestead to the conservation group. It was a wonderful day for the people of Port Macquarie and the dedicated volunteers who have maintained that historic facility for the past 11 years. The Department of Education and Training gave the building as a gift to the Department of Lands, confident that its heritage value would be preserved.

I pay tribute to Mr Oakeshott, who has campaigned strongly on behalf of the Douglas Vale Conservation Group to preserve the site for future generations. I will detail a little of the history of the site. The Douglas Vale historic house was built in 1862 by George Francis and classified by the National Trust. I understand that the house is believed to be the oldest wooden structure in the Hastings region. It became known for its significant grape and wine production between 1867 and 1918, receiving several prizes from exhibitions around the world. While I was there, I noted a number of those prizes were displayed on the wall of

the building. So, Douglas Vale is an important part of the history of Port Macquarie, and also an important part of the history of wine making in Australia.

In recent years the Douglas Vale Conservation Group has done a wonderful job restoring the building and the vineyard, which is again producing wines. The long-term lease will offer an opportunity for the group to plan for the future. It will give the group a chance to make commercial decisions and to encourage tourists to visit the site and wine drinkers to try the different grape varieties. Of course, that project would not have happened without the hardworking volunteers in the Douglas Vale Conservation Group; nor would it have occurred without the goodwill of officers from Lands and Education working together to achieve a goal and to preserve an historic site of the Douglas Vale Homestead.

So now an historic Port Macquarie winery is in public hands—forever. I encourage honourable members who might travel on the Oxley Highway in the lovely Port Macquarie region, which I am sure they do from time to time, to visit the Douglas Vale homestead from the point of view of heritage and also for the lovely winery.

### HYBRID VEHICLES

**Mr IAN COHEN:** My question is addressed to the Minister for Roads. Does the Minister consider the Howard Government's recently introduced \$2,000 rebate for gas conversions for vehicles to be the best peak oil abatement measure? Neither the Federal Government nor the State governments seem to be taking action to provide incentives for cleaner vehicles that are less fossil fuel dependent. Is it true that while the United Kingdom, United States of America, Singapore, China and most European Union countries offer tax cuts, rebates or other bonuses for hybrid cars, in New South Wales drivers of hybrid cars pay higher registration fees than other similar vehicles, based on the weight of the vehicle? Will the Government commit to providing incentives, such as lower registration fees, for hybrid vehicles?

**The Hon. ERIC ROOZENDAAL:** The registration system in New South Wales is related to the weight of the vehicle.

**The ACTING-PRESIDENT:** Order! I call the Hon. Charlie Lynn to order for the first time.

**The Hon. ERIC ROOZENDAAL:** That is important to help sustain the large road network. The Government constantly rebuilds and improves the road network in the interest of road safety and to improve the movement of vehicles. Many major projects are coming on line, and one is the Lane Cove Tunnel, the expanded Gore Hill Freeway with the Falcon Street ramps. When completed that will finalise the orbital network and will give Sydney more than 110 kilometres of international standard motorway. That is an important step towards improving the economy for motorists, improving traffic flows and helping reduce traffic emissions.

### DEPARTMENT OF HOUSING FAIRFIELD OFFICE LEASE

**The Hon. CHARLIE LYNN:** My question without notice is directed to the Minister for Commerce. Why did the Department of Housing cite "lack of public parking" as a reason why the old office of the Department of Housing office at Fairfield was no longer suitable, when the new office owned by Mr Tripodi's business associates, Mr Roy Spagnolo and Mr Frank Carioti, has no, or fewer public parking spaces for the department's use? How many public parking spaces were in the old building? How many are there in the new building?

**The Hon. JOHN DELLA BOSCA:** The honourable member is curious about matters in Fairfield, and specifically matters relating to the Department of Housing and to accommodation. The honourable member is asking about matters that stray into the realm of detail, such that it would be a bit of a stretch for him to expect me to have such information at my fingertips. I am happy to take his question on notice and provide him with an answer as soon as practicable.

### MOBILITY PARKING SCHEME

**The Hon. EDDIE OBEID:** My question without notice is directed to the Minister for Roads. Will the Minister update the House with the latest information on the Road and Traffic Authority's mobility parking scheme?

**The Hon. ERIC ROOZENDAAL:** People who misuse mobility parking scheme [MPS] cards are dishonest cheats, making life harder for people with genuine disabilities. Honourable members might be aware of reports about a joint New South Wales Government and City of Sydney covert operation targeting parking cheats. I can advise the House that over four days last week and in the preceding week six plainclothes City of Sydney rangers and two uniformed police officers patrolled Sydney's central business district [CBD] as part of the covert crackdown. To make the operation as effective as possible the rangers were in plainclothes with the police on hand to provide support to council officers.

The operation has sent a strong message: Rort the MPS scheme, expect to get caught. The MPS scheme was tightened in September 2003 to cut down on abuse of mobility cards without unfairly penalising genuinely disabled drivers. Approximately 289 MPS cards are currently in use in New South Wales and the scheme is for people who need it, not cheats who deprive genuine users of parking in the city. To date the operation has focused on the misuse of MPS cards in five hot spots around the Sydney CBD—Napoleon Street, Kent Street, around Hyde Park, in The Rocks and Ultimo. It will continue this week elsewhere in Sydney but, for operational reasons, I cannot provide the House with details of those locations. But I put cheats on notice. We are serious about cracking down on the abuse of a good scheme that helps to give people independence and mobility, and improve their standard of living.

[Interruption]

Was that Mrs Zemanek talking? There is probably a lesson in that for the honourable member. Liquid dinners and Stan Zemanek do not go down well together, do they Melinda? That will all come back to haunt the honourable member. During the four days of operations City of Sydney rangers worked in pairs and targeted early mornings when people were parking their vehicles and late afternoons when people were returning to their vehicles. Drivers were interviewed and asked to explain the use of their MPS cards and police were called if they refused to co-operate with the ranger's questioning.

Rangers interviewed 112 people using the cards and the rangers assessed every explanation made by motorists and determined whether or not it was appropriate to take enforcement action. They found that 26 people were using the cards illegally. The MPS permits were confiscated and the 26 motorists were issued with an on-the-spot infringement notice for \$461. The cards involved—genuine cards being misused—were returned to the Roads and Traffic Authority and revoked. Five other drivers fled the scene on foot when approached by rangers. The majority of the 112 permit holders were using their permits legitimately. I acknowledge the work that went into the operation involving officers of the RTA, the City of Sydney and NSW Police. The Government has increased fines from \$375 to \$461 for MPS offences that involve a conscious abuse of the system. I am happy to keep the House informed.

### HUNTER ELECTRONIC HEALTH RECORDS TRIAL

**Ms SYLVIA HALE:** My question without notice is addressed to the Minister for Health. How many general practitioners [GPs] are now participating in the Hunter electronic health records trial? How many Hunter GPs have expressed concerns about privacy risks in the design and implementation of the *Healthelink* system? Was a privacy impact assessment conducted before the Hunter trials commenced? The Western Sydney trial was due to commence in May. When will it commence? How many GPs have indicated their willingness to participate in the Western Sydney trial? Is the delay in commencing this trial due to ongoing concerns of GPs about privacy? Will the Minister release the Crown Solicitor's advice concerning privacy aspects of the trials? How will the Hunter and Western Sydney trials be evaluated?

**The Hon. JOHN HATZISTERGOS:** This is a terrific question from someone who opposed having the trials. She has given all this information about two trials that she and her privacy Nazi friends went out and vigorously opposed. Do honourable members know why she opposed the trials? I am convinced that the Greens have a policy of trying to downgrade people's health. Why do the Greens not put their drug and alcohol policy back on the Internet? We already know that Ms Sylvia Hale and her colleagues asked for a drug bazaar out at Cabramatta. That is what she wanted. The last thing she would want is any sharing of health information between health professionals that might improve health outcomes for people.

[Interruption]

That is just rubbish.



**Ms Sylvia Hale:** Just answer the question.

**The ACTING-PRESIDENT:** Order! I call Ms Sylvia Hale to order for the first time.

**The Hon. JOHN HATZISTERGOS:** The honourable member is very ill informed in relation to these trials. I can confirm that the electronic health trials will still go ahead in Sydney's west. The trial has been operating in the Hunter, New England since 23 March 2006. The pilot will be going ahead in Sydney's west. The two pilot programs will be fully evaluated.

*[Interruption]*

**The ACTING-PRESIDENT:** Order! I remind members that interjections are disorderly at all times. It will be impossible for Hansard to report any of the proceedings if the level of interjection continues. I certainly could not hear the conclusion of the Minister's answer. A number of members have already been called to order, and I will continue to call members to order if they persist with such behaviour.

#### DEPARTMENT OF HOUSING FAIRFIELD OFFICE LEASE

**The Hon. DAVID CLARKE:** My question without notice is directed to the Minister for Commerce for Finance. Can the Minister confirm that the lease on the Hamilton Road building previously occupied by the Fairfield Department of Housing continues until October 2006 and has remained empty until July this year? Given the lease on the new building at 360-362 The Horsley Drive commenced on 23 February 2006, how much has been spent by taxpayers on this double rent? How much did it cost to move from one building to the other and what was the cost of the fit-out of the new building? Can the Minister inform the House of the rents for 3 Hamilton Road and 360-362 The Horsley Drive?

**The Hon. JOHN DELLA BOSCA:** I thank the honourable member for his question. I note that his name also ends with a vowel, and that seems to be the direction of questioning here.

**The Hon. Michael Gallacher:** You have been up at the bazaar again, haven't you?

**The Hon. JOHN DELLA BOSCA:** It is a joke! I borrowed the joke book of the Hon. Charlie Lynn. I am sorry, Madam Acting-President, I will attempt to address the Opposition's silly questions as seriously as I can. I am advised that the decision to relocate the Fairfield office of the Department of Housing was made in March 2004 because of significant maintenance issues at its former premises. Not only would Opposition members cut the jobs of hardworking client service officers at the Fairfield Department of Housing; it now seems that Opposition members would have them working in a building infested by vermin, with significant safety concerns, cramped quarters, and airconditioning that worked only occasionally.

I am further advised that contract negotiations were conducted by the Department of Commerce and, as I said in answer to the previous question, at no time was the relocation subject to ministerial approval. I am advised that it is not normal practice for the department to source outer suburban offices via a public tender. For the benefit of Opposition members, I am also advised that the Department of Commerce conducted a government leasing service search and found that The Horsley Drive premises was the only suitable property available in the Fairfield area.

#### AQUATIC WEED RECYCLING

**The Hon. PETER PRIMROSE:** My question is addressed to the Minister for Primary Industries. Will the Minister inform the House of the latest research involving the treatment and use of aquatic weeds harvested from the Hawkesbury and Nepean rivers?

**The Hon. IAN MACDONALD:** Following an outbreak of aquatic weeds in the Hawkesbury River in 2004 the State Government has been conducting major research into this matter. The research project conducted by the Department of Primary Industries focused on finding ways of utilising weed that was mechanically harvested from the Hawkesbury-Nepean system.

**The ACTING-PRESIDENT:** Order! I call the Hon. Greg Pearce to order for the first time.

**The Hon. IAN MACDONALD:** The weed, namely salvinia and alligator weed, was harvested as part of the control and cleanup of the outbreak. I am not talking about finding a use for a wheelbarrow-load of aquatic weed; in fact, it is a very substantial amount. The State Government has harvested some 35,000 cubic metres of aquatic weed and has now come up with a good use for it as compost. The Department of Primary Industries and its partners are proud to say that this trial has been very successful. It is the first large-scale scientific trial looking at the recycling of noxious weed material.

Today I can report to the House that the results are in, and I am happy to say that the news is very good. Our researchers have found that quality compost that is safe to use and beneficial for farmland can be produced easily from aquatic weeds. I am sure that the Hon. Charlie Lynn knew that. After the salvinia outbreak in 2004 harvesting of the weeds created a major challenge in the form of disposing of the plant material. This led to the State Government's commissioning an 18-month research project to examine ways to recycle harvested weeds. One of the big questions was whether an environmental risk remains from using this material even though it had been composted. The trial found that it is critical to ensure that the material is heated for long enough at a sufficiently high temperature and that it is mixed and turned sufficiently. It must be heated at about 55 degrees Celsius for three consecutive days. To ensure that alligator and many other terrestrial weeds do not survive it is important to monitor compost windrow temperatures as well as the site itself to ensure that no weeds are growing in or around the compost.

Tests on the quality of the compost were also undertaken. The researchers found the weed compost to be comparable to compost made from organic garden material, although with lower concentrations of nitrogen, phosphorus and calcium and higher amounts of inorganic materials such as sand. The concentrations of heavy metals and chemical residues in the composted material were very low, indicating a low risk from other contaminants. Trials at the New South Wales Department of Primary Industries Centre for Recycled Organics in Agriculture have shown that the compost is also effective in controlling soil erosion and improving water quality. Pasture establishment in the plots treated with the aquatic weed compost was very good. This indicates that the compost is likely to be a useful medium for re-establishing vegetation, particularly on sites denuded of topsoil. Environmentally sensitive areas in the Sydney catchment can be affected by a high level of erosion, which impacts on the quality of waterways and the productivity of agricultural land. Using good quality compost to reduce erosion and soil washing into waterways can help to improve water quality. This is a potential use for recycled aquatic weeds such as salvinia and alligator weed, provided they are composted appropriately. We are working with industry at the moment to find potential sales outlets.

### **BHP BILLITON CAROONA MINE PROJECT**

**Reverend the Hon. Dr GORDON MOYES:** My question is directed to the Minister for Mineral Resources. Is the Minister aware of widespread community concern about the exploration licence granted to BHP Billiton for mining in the Caroona area? Is the Minister aware that mining exploration in this largely farming area will risk a reduction in ground water availability, impact on ecosystems that rely on aquifers, affect detrimentally the quality of water that is pumped from the mine site, cause damage to valuable wheat and oilseed land, and destroy the floodplain that leads into the Darling River? Will the Minister fund and support an independent working panel to assess the potential impact of mining on aquifers, agriculture and the surrounding environment, including the Darling River? How will the Minister ensure that the Murray-Darling is not polluted with effluent from the mine, given that the coalmine will be potentially sited on a floodplain that drains, by means of the Mooki River, straight into the Murray-Darling basin?

**The Hon. IAN MACDONALD:** It is good to see that a green wing is developing in the Christian Democrats. That sounded like a question written in the office of Ms Lee Rhiannon. What an alliance! They could exchange preferences! As to Caroona, we are entering the environmental assessment process during which BHP Billiton will analyse the factors and issues to which Reverend the Hon. Dr Gordon Moyes referred. That will be a rigorous process. The exploration licence is for five years so I assume that numerous tests will be conducted in that time. The mine will be a world-class operation, with resources in the order of 500 million tonnes. BHP proposes extracting up to 18 million to 20 million tonnes of material a year.

If the proposal goes ahead, it will have significant benefits in terms of infrastructure in the region, such as upgrading the rail route between the port of Newcastle and the Gunnedah basin. Reverend the Hon. Dr Gordon Moyes can rest assured that as part of the process BHP will be required to produce an EIS and that it will be examined rigorously. It is not unusual for many companies around the world to pursue responsible mining ventures that handle with sensitivity and modern technology the types of environmental impacts that

Reverend the Hon. Dr Gordon Moyes mentioned. However, he can rest assured that the Government will not approve the mine unless it passes the environmental tests provided by way of legislation in New South Wales.

### **LIGHTNING RIDGE HEALTH SERVICES**

**The Hon. RICK COLLESS:** My question is directed to the Minister for Health. Is the Minister aware that a man with a collapsed lung presented to Lightning Ridge Hospital, where staff contacted the Royal Flying Doctor Service in Dubbo but were told that a doctor was not available? They then contacted three Broken Hill doctors from the Greater Western Area Health Service but they were also unable to assist. Staff were then forced to contact a doctor in Sydney, put him on a commercial flight to Dubbo and fly him to Lightning Ridge to attend to the patient. Why were the three doctors in Broken Hill unable to assist? Does the Minister consider this extreme delay and fiasco acceptable for country people?

**The Hon. JOHN HATZISTERGOS:** I am not sure when this incident is alleged to have occurred but I will look into it. I am aware that on Friday 1 September Dr Aalders advised the Greater Western Area Health Service that he had decided to leave Lightning Ridge and retire from general practice. Dr Aalders was the visiting medical officer in Lightning Ridge. In recent weeks he has been unwell and unable to discharge fully all his duties at Lightning Ridge Hospital. I understand that Dr Aalders has provided medical services to the Lightning Ridge community for many years. The Greater Western Area Health Service thanks him and wishes him a return to good health in his retirement. The chief executive of Greater Western Area Health Service advised that a locum doctor has already commenced duties at Lightning Ridge multi-purpose health services. I will ensure the continued provision of health services to members of the local community whilst a new doctor is able to be recruited. I will look into the more specific issues the honourable member has raised.

### **DEPARTMENT OF LANDS AND IBM SOFTWARE DEVELOPMENT PARTNERSHIP**

**The Hon. IAN WEST:** My question is addressed to the Minister for Lands. Will the Minister advise the House of a regional software development partnership between the Department of Lands and IBM?

**The Hon. TONY KELLY:** I thank the honourable member for his interest in jobs in country areas. Over the past three decades the Department of Lands has developed state-of-the-art computer facilities at Bathurst, offering the latest spatial information technologies. The State's spatial information infrastructure is becoming increasingly important in terms of planning for the future needs of the community and the provision of effective emergency service response when required. The Iemma Government is committed to ongoing investment in this infrastructure, and seizing opportunities for co-operative ventures with the private sector. For several years now, the Department of Lands in Bathurst has worked closely with IBM in a range of areas from spatial information technology to super computers.

Plans are now well under way to establish an IBM software and applications centre in Bathurst that, according to IBM, could create up to 100 new high-tech jobs in software development by the end of next year. The centre is part of an agreement between the Iemma Government and IBM Australia. I am pleased to inform the House that the centre will be located within the Department of Lands building at Bathurst. During the next three years Country Energy, which supplies electricity to 95 per cent of New South Wales, and IBM Australia will work together to develop and support specialist software for use by Country Energy. As a result of this agreement, IBM will establish a regional delivery centre in Bathurst with Country Energy as its first client. The centre will start with about 10 people and steady growth in employment is expected. This kind of agreement has already led to IBM creating hundreds of new jobs in other parts of regional Australia, in particular, regional software producers in Victoria and Queensland.

According to the General Manager for IBM Application Services, David Norris, the Bathurst Centre is the sixth such project. This model has proven to be effective in creating jobs and specialist capabilities, particularly with the support of local business, government and universities. I am confident that Bathurst will become just as successful as other centres such as Ballarat, Victoria, where IBM has about 600 employees. IBM's presence in Bathurst, I believe, will provide close links with Charles Sturt University's technical staff and students and a strong base to encourage other like-minded technical businesses to move to the region. I understand that already IBM is having discussions with Charles Sturt University to resource some of the roles at the centre through an innovative Earn as You Learn Program. It has been a successful model in other regional centres that have coupled up with their local university.

The Department of Lands facility is across the road from the Charles Sturt University. The program provides an opportunity for undergraduate students to gain professional and practical skills prior to graduation by working at the centre during their degrees. It fits in nicely with the Government's initiatives, such as the spatial technology scholarships about which I informed the House last week. I look forward to IBM working closely with Lands and Country Energy in establishing and growing this venture. Establishing the centre is a vote of confidence for the people of Bathurst and a strong signal of the Lemma's Government's commitment to country jobs. It again contrasts this Government's commitment to rural and regional jobs and skills, against a Coalition that plans to destroy 29,000 jobs across the State and also investment in country New South Wales.

#### **WOMEN'S HEALTH AND SEXUALLY TRANSMITTED DISEASES EDUCATION**

**Reverend the Hon. FRED NILE:** My question is addressed to the Minister for Health. Is the Minister aware that the Melbourne-based company CSL Limited has lobbied the Federal Government through the Pharmaceutical Benefits Advisory Committee for the Government to undertake a subsidised vaccination program for all girls aged 10 to 26? Is the Minister aware that this vaccination program will utilise CSL's product Gardasil to help prevent girls and young women from contracting the human papilloma virus, the significant cause of cervical cancer as a result of multiple sex partners? Is there a danger that females aged from 10 to 26 who have been vaccinated will believe they are now free to engage in sexual promiscuity? What has the Minister done to educate schoolgirls of this State of the health dangers associated with casual sexual intercourse and the contracting of sexually transmitted diseases? Will the Minister urgently introduce a community and school health education campaign to inform and protect schoolgirls from sexually transmitted diseases? [*Time expired.*]

**The Hon. JOHN HATZISTERGOS:** I will take the question on notice.

#### **PORT STEPHENS-GREAT LAKES MARINE PARK**

**The Hon. ROBYN PARKER:** My question is directed to the Minister for Primary Industries. Will the Minister advise the House if, under the weight of public pressure, the plan for the Great Lakes Marine Park will be scrapped? Given that the time for public submissions on the Great Lakes Marine Park is almost over, and recognising the thousands of signatures tabled in this Chamber, is it time that the State Government started listening to the local community in Port Stephens?

**The Hon. IAN MACDONALD:** One thing the honourable member can rest assured is that the Government will not reject its plan to proceed with the marine park in the Port Stephens area. The consultation period is open until 23 September. The Government has received a lot of submissions from interested stakeholders right across the State. There are no doubt many strong views on this topic but the Government is not afraid to take decisions that it believes are right. The Government made it clear prior to the last election that it will establish six marine parks, and it is well and truly on its way to fulfilling that promise to the people of New South Wales.

The marine park is a balanced concept, and ample opportunity has been given to people to put their views in a submission by 23 September. The Government will evaluate all submissions—some are practical and have good ideas. That is a long way from the nonsense being peddled by the Opposition around this State, particularly in relation to marine parks. The marine parks concept was agreed to by 161 of the most famous marine scientists internationally who believe that these sanctuaries play a significant role in assisting the development of fish stock. I regularly read many articles in the *New Scientist* about studies done in the Caribbean and Europe, where sanctuary zones have provided the means for major restocking. It is a multi-use 97,000 hectare park and fishing activity will continue in 80 per cent of it. The Opposition has suggested that fishing will end but overseas evidence shows that fish stocks will be enhanced. I will send to the honourable member a copy of a recent article in the *New Scientist* about reefs in the region—

**The Hon. Duncan Gay:** I have read that. I don't believe it.

**The Hon. IAN MACDONALD:** You don't believe anything that has a scientific basis, we know that. The studies in the *New Scientist* definitely show an enhanced number of many fish species that have moved out of the environment because of overfishing. There is a strong case for some sanctuary zones within the park but I reiterate that most of these parks will be open for fishing. The Government has received great input in the process from many recreational and commercial fishers. They have informed and assisted the Marine Parks Authority and the Government to make an equitable decision in relation to marine parks.

**COBAR PENEPLAIN LANDHOLDER OFFSET RATIOS**

**The Hon. GREG DONNELLY:** My question is addressed to the Minister for Natural Resources. Will the Minister provide the House with an update on offset ratios offered to landholders in the Cobar Peneplain?

**The Hon. IAN MACDONALD:** I thank the honourable member for his question on this important issue. I know that honourable members opposite have a great interest in it, because we dealt with it at some length in last night's estimates hearing. It is just a shame they have not expressed an interest in any of the 61 property vegetation plans [PVPs] that have been signed off. That reinforces the fact that members opposite have no actual plan other than to rubbish everything.

On 6 October last year Western Catchment Management Authority [CMA] officers visited a property near Cobar to provide a demonstration of the PVP assessment process to the landholder. Other landholders from the district also were present. Due to the presence in the area of red-tailed black cockatoos—an endangered species—a considerable offset was suggested by the CMA. It was in the range of 100:1. So this is not about environmental impact statements; it is about threatened species, as I told the hearing last night. However, the CMA officers thought this result was particularly perverse and showed great resourcefulness in questioning this offset requirement. They continued to workshop the result so that a more appropriate offset ratio could be found.

On Thursday 2 March 2006 the CMA held discussions with the landholder to further explore opportunities within the property vegetation plan parameters. The landholder was advised that the offset ratio could be brought down to approximately 16:1 or even lower if different management prescriptions were used. However, the landholder rejected this offer and refused to enter into a PVP on that basis. The CMA people, undeterred, decided they should help the landholder even further and took the case to a PVP workshop with officers from the Department of Natural Resources and the Department of Environment and Conservation. I must take this opportunity to commend the actions of the Western CMA officers, who have shown great leadership and initiative in their handling of this issue. PVP workshops are an activity that the New South Wales Government has set up to review any PVP results that the CMAs consider to be perverse and identify ways of rectifying them.

**The Hon. Rick Colless:** Who was the landowner?

**The Hon. IAN MACDONALD:** I understand it is the one that we were talking about last night.

**The Hon. Rick Colless:** What is his name?

**The Hon. IAN MACDONALD:** I think Chambers is the name.

**The Hon. Rick Colless:** Is that Rob Chambers of Osterley Downs? Would you like to say that?

**The Hon. IAN MACDONALD:** I think that is the name, but I am not a million per cent sure that is the case. I think we are talking about the same case. At the workshop it was decided that the minor variation option, which the Government provided to the CMAs through the native vegetation regulations, could be employed. Using a minor variation, the offset ratio was able to be brought down to a little over 4:1—that is, 477 hectares of clearing to 2,077 hectares of offset. I understand that the landholder concerned was still unsatisfied with this result. I would also hasten to point out that other issues, such as salinity, were identified through the process.

It has to be recognised that the trial where the 100:1 ratio was suggested took place five days after the new system was switched on. CMA officers did not have much experience with the process, so they were very much on a learning curve. Now, CMA officers are much more confident about using the minor variation option, and I have personally encouraged them to be brave and trust their expertise on these matters. That is why we gave CMAs this ability—so the system is not a one-size-fits-all model but can incorporate local knowledge.

I must point out that 61 PVPs have been completed. If The Nationals knew anything about the system, they would know that not all PVPs are listed on the Internet. Incentive PVPs and continuing use PVPs, which do not change the regrowth date, are not listed on the public register. This information is contained in our information packs, which The Nationals should take the time to read. Of the total of 181 hectares of approved broad scale clearing, 2,983 hectares of offsets have been proposed—that is, an average offset ratio of roughly 16:1. This is not even including the 71,000 hectares of approved woody weed treatment and 193 hectares of thinning, which do not even require offsets. [*Time expired.*]

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

### **HYBRID VEHICLES**

**The Hon. ERIC ROOZENDAAL:** Earlier during question time Mr Ian Cohen asked me a question regarding hybrid and LPG vehicles. The Roads and Traffic Authority has a fleet management strategy that involves incorporating low emission hybrid vehicles into its fleet. The RTA has 23 petrol-electric vehicles and 21 vehicles with liquefied petroleum gas in its fleet. The RTA also is replacing larger vehicles with smaller, four-cylinder vehicles. To date, more than 200 larger vehicles have been replaced. This program is ongoing. These issues were canvassed at the budget estimates hearing last Friday.

**Questions without notice concluded.**

### **CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT BILL**

#### **Second Reading**

**Debate resumed from an earlier hour.**

**Reverend the Hon. Dr GORDON MOYES** [5.04 p.m.]: Before the interruption of this debate I was saying that I wish to deal with a number of different subject matters relevant to the Children and Young Persons (Care and Protection) Amendment Bill. I had just started to speak about out-of-school-hours care and was indicating that at present in New South Wales some 1,500 out-of-school-hours care services provide care for more than 37,000 children each year. Most of those services are community based. Honourable members may know that the Federal Government is responsible for providing out-of-school-hours funding and places. However, it has become apparent that it is incumbent on States to regulate those out-of-school-hours care services.

As a consequence of this responsibility, the bill introduces into the Act a new chapter that provides for the establishment of a regulatory framework for out-of-school-hours care services. Those amendments, in part, define what is meant by "out-of-school-hours care services", providing a broad definition of what is meant by those services. The exact regulations that will be applicable to this area are yet to be finalised.

A second aspect of the bill is out of home care. The bill also clarifies provisions in the Act relating to out of home care for children and young persons. As I have mentioned previously, many children fall within this category. In New South Wales there are 5.8 per 1,000 children, and the figure has progressively increased over the years. The institute study defined "out of home care" as out of home overnight care for children and young people under the age of 18 years where the State or Territory makes a financial payment. This includes placements with relatives, other than parents, but does not include placements made in disability services, medical or psychiatric services, juvenile justice facilities, overnight childcare services, or supported accommodation assistance placements.

The bill streamlines processes for a child or young person who is leaving or has left out of home care and who wishes to access original documents and personal information. Under the bill a child or young person will now be able to request details of original documents and personal information, either verbally or in writing. Original documents and personal information include things such as a birth certificates, the names of parents, school records, medical reports and so on.

In the 27 years that I led Wesley Mission's Dalmar Child and Family Care I felt there was a very significant need for this kind of service. Many years ago I set aside a full-time staff person to deal with all such data and records and to make available as a matter of course all such information as we had on any person who came into our care. This included matters such as medical vaccinations—which are so important to a person later on in life—parental information, school records and the like.

As our records went back over 120 years, it was a surprise to me to find that much of that documentation was requested by people who were formerly in our care, in out of home care, as far ago as 70 and 80 years previously. I often wondered why it was that never during the previous years had they sought that documentation. But, as they approached the end of their lives, it seemed they wanted to make sure they knew the details, so at least they could pass them on to their children or grandchildren.

We commend the Government for making this information available as a matter of course. I would indicate also that, as most of these children who are living in out of home care are cared for by voluntary organisations, not-for-profit organisations, and non-government organisations, some extra money should be set aside to fund the staff necessary to handle all this data processing. It is a very large task indeed. As I indicated, some years ago I found it necessary to set aside a full-time staff person just to help former children in out of home care discover their roots and their historical data. The bill also makes an amendment relating to consent to medical treatment of persons 16 years of age and over. This is always a vexed issue, because someone must give permission, and parents usually are not able to be contacted to do so.

The second reading speech in the other place indicates that the bill updates existing provisions in the Act and adopts the recommendations of the New South Wales Law Reform Commission concerning consent to medical treatment of persons under 16 years of age and older. The New South Wales Law Reform Commission received a letter from the Attorney General on 14 August 2002 asking it to inquire into and report on laws relating to the consent of minors in New South Wales to medical treatment. However, it is important to note that a report on the commission's work in this area has not yet been finalised. It would seem that recommendations on this subject have not yet eventuated.

The second reading speech referred to the fact that the Act currently prohibits foster carers from consenting to minor dental treatment that is not urgent or is unduly restrictive for a child or young person. The bill will remove this restriction by allowing authorised carers to consent to dental treatment for a child or young person involving minor surgery, such as root canal work, and extraction and repair. This seems to be a relatively innocuous development. However, I hope that the basis on which consent is given does not expand into other areas that are related to consent to medical treatment by young people until we are able to examine the recommendations of the New South Wales Law Reform Commission. It is a minefield when people give consent for medical treatments to people in their care.

The bill makes a gamut of amendments to chapter 5 of the Act relating to the Children's Court proceedings and will strengthen and clarify the court's existing functions. I will not detail all the amendments because they are many and varied, but I will refer to some. Under the Act the director general may make emergency care and protection orders when a child or a young person is at risk of serious harm. There have been times when the director general has endeavoured to extend the time of an emergency care and protection order but the time limit for the order has expired before the court has had the opportunity to consider the application. The bill rectifies the situation by amending section 46 of the Act to make it clear that if any application for an extension of emergency care and protection order is filed prior to the expiry of that order the order will remain in force until the Children's Court determines whether the order should be extended. This commonsense amendment will save the time of both the director general and the court.

Section 71 of the Act deals with consideration of whether a child's or a young person's basic needs are being met as a ground for whether the child or young person is in need of care and protection. The bill proposes that this section apply also to primary caregivers, such as grandparents or other extended family. It is startling to realise that in 2003 there were 22,500 families in which a grandparent or grandparents were the guardians of grandchildren—31,100 children aged between 0 to 17 years. It is an interesting social phenomenon, which is growing.

The bill ensures that a child who exhibits sexually abusive behaviour, but who has not been criminally convicted for such behaviour, is not prevented from accessing a court-ordered therapeutic program relating to the sexually abusive behaviour. This is an important development. For clarity the bill prescribes that the civil standard of proof, on the balance of probabilities, applies to all proceedings under the Act to avoid any uncertainty and to remove the incidence of any unnecessary complicated arguments as referred to in the second reading speech.

The bill increases the maximum penalty that can be imposed under the Act from 100 to 200 penalty units, or a maximum of \$22,000, if the proceedings are taken in the Local Court. Some 17 offences in the Act carry a maximum penalty of 200 units. However, section 259 currently allows only 100 penalty units to be imposed when an offence under the Act or regulation is taken before the Local Court. An important amendment relates to the prohibition on publications of proceedings within the Children's Court. Currently there is a prohibition on publications of court proceedings at large. However, this prohibition does not extend to out-of-court proceedings, such as preliminary conferences. Given the position of vulnerability in which minors often find themselves by virtue of their being minors, the bill extends the current prohibition to out-of-court proceedings also, and we support that extension.

The bill amends section 99 (3) of the Act to ensure that children are not brought before the court solely to provide legal instructions. The bill makes amendments to protect and clarify the rights of children and young persons to legal representation. The bill increases, from 10 to 12 years, the age at which a child will be presumed to be capable of providing legal instructions to a legal representative. Certain research has shown that most 10 and 11-year-olds have considerable difficulty in understanding the legal ramifications of their instructions, and that they are unable to provide adequate instructions regarding the many complex matters that are dealt with in care proceedings.

The bill also strengthens the protection of people who draw attention to the risk of harm posed to a minor—a group of people who are known as "reporters". For example, by amending section 29 of the Act the bill extends the current protections to the person who first drew attention to the risk of harm posed to the child or young person but who did not make the report. The Christian Democratic Party commends the bill to the House. I thank my research assistant, Linda Munoz, for her excellent work on this very complex legislation.

**The Hon. GREG DONNELLY** [5.16 p.m.]: I am pleased to make a small contribution in support of the Children and Young Persons (Care and Protection) Amendment Bill. The bill proposes amendments that are essential in encouraging the community to continue reporting children and young people who are at risk of harm. Last year in New South Wales 216,000 child protection reports were made to the Department of Community Services. One in 10 babies under the age of one was reported to the department in the past 12 months. Each year these numbers increase, which indicates the magnitude of child abuse and child neglect facing the community, and the challenges for the Government.

The only way that children and young persons who are suspected of being at risk of harm come to the attention of the Department of Community Services is if they are reported by members of the community. Therefore, the Government has an obligation to protect these people who, in good faith, make a report to the department, and to put sufficient safeguards in place to ensure they will continue to make reports. Currently a range of protections in the Children and Young Persons (Care and Protection) Act applies to persons who make reports, including the protection of their identity.

The bill proposes to extend the protection of identity to people who do not necessarily make the report of risk of harm, but who are involved in causing the report to be made. A staff member in a children's service may identify that a child attending the service is at risk of harm, and that person may indicate this to the authorised supervisor of the service, who is the one who ends up making the report to the Department of Community Services helpline. The bill aims to offer the person who was involved in first identifying the risk of harm the same protections as the person who actually made the report to the department.

The bill also seeks to ensure that this protection is maintained when the report is obtained by another statutory body. There have been instances of statutory bodies, such as the Commission for Children and Young People or the Department of Education and Training, releasing information to parents about children and young people in care that has not been in the best interests of the children or their carers. These targeted amendments aim to maintain a high degree of confidentiality in relation to the identity of reporters, to encourage people to continue to report risk of harm. I commend the bill to the House.

**The Hon. Dr PETER WONG** [5.18 p.m.]: I speak in opposition to the Children and Young Persons (Care and Protection) Amendment Bill. Once again, the legislation we are debating is a mixed bag. I agree with the comments of honourable members that the bill has many good provisions, but they are long overdue. The Hon. Patricia Forsythe referred to care leavers accessing their records, and that is good, but other aspects of the bill are simply outrageous. I agree with the Hon. John Ryan that it is untenable that there be secrecy provisions that will keep information secret from a party to what is essentially a court matter.

One might be justified in keeping information from a child, but not from an adult defendant. I believe the provision is against the essence of natural justice. However, I note that the magistrate is given the final say on the exercise of this power. I assume it will be used rarely and infrequently. I also assume that departmental officers will seek to use this provision often. But I have faith in the presiding magistrates, who will grant such secrecy only when it is in the best interest of the child and will not support the laziness of departmental officers. In similar vein, I note that the Minister has raised concerns relating to the workload and pressure placed on the Children's Court. The Minister has stated:

In certain cases it may not be known at the time of filing the care application what kind of final care orders should be sought for the child or young person. This becomes more apparent as proceedings progress and particularly after assessments are conducted.



An amendment to section 61 of the Act provides that applications for care orders can be varied before the court makes a finding that a child or young person is in need of care and protection.

This suggests a very high level of sloppiness in the department. We provide the department with a certain leeway at law because we want children to be protected. This includes allowing the department to proceed with cases on the evidentiary grounds of a balance of probability rather than beyond reasonable doubt.

Many have suggested that this latitude has allowed the development of a culture of amateurism. I fear that these new provisions, which will allow the department to change the order it seeks particularly after assessments are conducted, is enshrining an acceptance of such sloppiness in the legislation. The department should already have undertaken such assessments and be aware of the orders it seeks, other than emergency orders, long before the matter is brought before the court. I suggest that the Minister's concern is not with the workload of the court but, rather, with enhancing the growth of administrative amateurism in the department. I ask magistrates to be aware of the abuses that these provisions will introduce into the courts and guard against the misuse of these provisions by departmental officers.

I particularly note the amendment in schedule 1 [5]. I am not really sure what it is meant to achieve, but I suspect that it is not a good thing. I suspect that it has something to do with the department protecting itself, not the children, in future court cases. Many agree with me that changing the definition of a "child" or "young person" as "being in the care and protection of the director general" to instead being under the "care responsibility" of the director general, which is what schedule 1 [5] proposes, is probably a true reflection of the department's failure to care and protect its children.

It is a startling admission that keywords such as "care and protection" are not defined in the Act. This is indicative of the problems in the department: Rather than defining simple terms that are central to its operations, the department seeks instead to amend them. Without a definition of the word "care", the words "care responsibility" of the director general are equally as meaningless as the director general's protection.

**Ms LEE RHIANNON** [5.24 p.m.]: The Greens support this bill, which makes a number of amendments to the Children and Young Persons (Care and Protection) Act 1998. The amendments aim to change the way in which the Children's Court operates and to reinforce the legislative framework that regulates out-of-school-hours children's services in New South Wales. The Greens have consulted the Commissioner for Children and Young People, the Law Society and private solicitors and we are satisfied that the bill should be supported.

Schedule 1 [2] inserts "or body" after "any person" in section 29 (1) (f). Section 29 provides for protection of persons who make reports or provide certain information. This provision protects the identity of any person and, when amended, any body—that is, any agency—from having their or its identity disclosed without their or its consent or the leave of the court. Clearly, that is very important. Schedule 1 [3] extends the protection of identity not just to the person who originally made the report, but to any other person who may not have caused the report to be made but told somebody else who, in good faith, subsequently made the report. If a child tells a teacher something and the teacher tells a principal who subsequently informs the Department of Community Services [DOCS], the teacher's identity would be protected.

There may be a risk that hearsay and vexatious second-hand reports may increase in frequency, but this risk must be balanced against the protection of those who report in good faith to another person who subsequently contacts DOCS. The extension of identity protection will encourage people, who might not otherwise make a direct report, to report a matter to another person who subsequently contacts DOCS. I believe that the public interest in encouraging reporting outweighs the disbenefit resulting from a possible increase in vexatious reports. Schedule 1 [4] also extends the protections given by section 29 to persons who make certain other reports in good faith, such as those who make reports under section 120, which relates to the homelessness of children, and section 121, which relates to the homelessness of young persons.

The amendments in schedule 1 [9] relating to the Children's Court attempt to deal with the problem of a hearing not occurring prior to the expiration of an emergency care and protection order. Presumably the delay is the result of the Children's Court being overworked, or DOCS having trouble with the preparation of a case. That this amendment is necessary worries me. Does it mean that the Children's Court cannot deal with its workload in a reasonable time frame? One must ask whether these orders can be extended indefinitely. Is DOCS funded adequately to keep up with its court work? How can the problem be remedied? I ask the Minister representing the Minister for Community Services to respond to these questions during his reply. The bill also

specifies the standard of proof that should pertain to court proceedings and orders. Section 93 (3) currently states:

The Children's Court is not bound by the rules of evidence unless, in relation to particular proceedings or particular parts of proceedings before it, the Children's Court determines that the rules of evidence, or such of those rules as are specified by the Children's Court, are to apply to those proceedings or parts.

Schedule 1 [32] amends section 93, which outlines how proceedings in the Children's Court can be conducted, to explicitly provide that the standard of proof should be the less onerous "balance of probabilities" rather than "beyond reasonable doubt". Schedule 1 [35] changes from 10 to 12 the age at which a child is presumed to be able to give legal instruction. The DOCS report entitled "The interagency guidelines for trial protection intervention" states the principle that children and young people must be given the opportunity to participate, at a level appropriate to their age and development, in decisions which significantly impact on their lives. It seems that this amendment, and another amendment aimed at keeping children out of court, may detract somewhat from that principle. But it is no doubt true that sometimes it is better for the child not to be present.

The view of the Commissioner for Children and Young People and many specialist Children's Court solicitors is that 12 years is a more realistic age than 10 years for a child to be able to give instruction. The Greens support the active involvement of the child and presentation to the court of the child's wishes, but we also acknowledge the vulnerabilities of children and young people and recognise that they need representation after a certain point. There is already some flexibility that is built into the Act whereby the court can find that a child under the specified age is capable of giving instructions, or that a child over that age is incapable of doing so.

The remainder of the bill seeks to regulate out-of-school-hours care services. It is good that the Government has finally acted to do so. In this State there are 1,500 out-of-school-hours services providing care for 37,000 children. According to the Minister's second reading speech, the New South Wales Government is becoming more and more responsible for those services as the Commonwealth withdraws from responsibility. As we know, it is the same old story we have heard from Prime Minister Howard and Treasurer Costello: reduce the services and give out tax breaks, what many people call "bribes". That is all about hanging on to power.

The bill amends section 208 of the Act by allowing for two authorised supervisors to be named on a children's service licence. However, at any one time only one will have overall responsibility. This will allow for job sharing, which reflects the reality of the sector. New chapter 12A of the Act will establish a regulated framework for out-of-school-hours care services. The bill defines what an out-of-school care service is and what it is not. It defines, for example, child care facilities offered by a hospital and where less than five children are being minded at a carer's house. Overall, the bill is a positive step for children and young people, and the Greens support it.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [5.31 p.m.]: I support the Children and Young Persons (Care and Protection) Amendment Bill. It makes a large number of amendments to the Children and Young Persons (Care and Protection) Act 1998. It is interesting that the Government has not yet proclaimed more than 30 crucial sections of the existing Act, for a wide variety of reasons. I will return to that later. Proposed section 29 (3A) provides an extension of existing confidentiality and other protection afforded to those concerned in the making of reports about children and young persons. The bill amends sections 3, 51 and 154 to change a range of procedural matters concerning Children's Court proceedings regarding evidence, and to change the disclosure of information about children and young persons and media coverage.

The bill amends section 168, which deals with children's access to their personal information and documents. It amends section 259 (3) to set out tighter regulation of out-of-school-hours care services and penalties for offences under the Act. The Government is moving substantial amendments to the Act, but many in the child protection sector still wonder when the whole Act will come into force. For instance, section 28 of the Act relates to records of reports and subsequent action. The director general must keep a record of all reports made to or by the director general, any action taken as a consequence of a report, and any subsequent disposition of and dealings with children and young persons to whom such reports or actions relate, subject to the regulations. However, section 28 still has not been proclaimed!

Item [48] of schedule 1 to the bill amends section 123 of the Act, which relates to compulsory assistance for a child or young person. Compulsory assistance is intended to be a form of intensive care and support for the child or young person, which is necessary to protect that child or young person from suicide or

other life-threatening or serious self-destructive behaviour. However, sections 123 to 133 still have not been proclaimed!

Section 148 relates to the disclosure of information concerning placement to parents, but it has also not been proclaimed! Section 170 concerns the retention of records of a child or young person in out-of-home care for seven years after the designated agency is no longer responsible for them. The bill inserts proposed section 170 (2) to facilitate document exchanges between the director general and agencies over placements. Section 150 (5) and (6), dealing with the review of placements effected by order of the Children's Court, still have not been proclaimed! In determining the safety, welfare and wellbeing of a child or young person who has been placed in out-of-home care by an order of the Children's Court, the designated agency having responsibility for the placement of the child or young person is to conduct a review of the placement.

Section 150 (5) of the Act states that a report of the review is to be given to the Children's Guardian, and Section 150 (6) states that despite subsection (1) a review may be conducted at any time by the Children's Guardian. Sections 155 and 156, regarding the monitoring of children and young persons in voluntary out-of-home care and the review of voluntary out-of-home care arrangements, still have not been proclaimed!

Section 159 provides that the director general is meant to maintain a register in which are entered the particulars of every child or young person who has been in out-of-home care for a continuous period of 28 days or more. However, the section still has not been proclaimed, so there is no register. One cannot help wondering whether the Government is frightened that some day someone might do a longitudinal study of those children to assess their outcomes. Certainly whenever I have asked for longitudinal data to back policy changes suggested by the Department of Community Services, the response has been, "No, we cannot keep records of kids' lives, because of privacy concerns." Effectively, that means that there will never be research on whether the policies have worked in the long term.

It should be possible to de-identify data. That happens routinely in medical studies, such as a Busselton blood pressure study which looked at the health of people in that city in Western Australia for many years. The effect of blood pressure on people's long-term mortality and so on is de-identified for privacy reasons. Those health conclusions are extremely useful. If certain policies are put in place for children, surely such policies can be checked to determine whether a kid is taken away from its parents, whether the child will do better than if it is left with a dysfunctional family, and what criteria will make the child do well or poorly. Questions such as that need to be answered in the long term.

Why are those sections of the Act not proclaimed? It may be that the Children's Guardian was not sufficiently resourced to carry out the functions envisaged when the Act was drafted. If so, the Government ought to resource the Children's Guardian so that those functions can be carried out. The Government should not simply leave chunks of the Act unproclaimed and bring it to the House whenever it has to under the regime that commenced under my predecessor the Hon. Liz Kirkby. Let us not make any bones about that: unproclaimed legislation is effectively the Executive Government ignoring Parliament by stopping the Governor from proclaiming legislation. Legislation that is passed by Parliament should be proclaimed: let us reassert the sovereignty of Parliament and not have huge amending bills unproclaimed for many years.

Section 164 of the Act provides that the Minister is responsible for the provision of accommodation for any child or young person for whom the Minister has parental responsibility. As that section has not been proclaimed, does that mean that the Minister does not have to take responsibility? Under the sections relating to notification of deaths of children and young persons in out-of-home care, and the removal of responsibility for daily care and control from an authorised carer, the Children's Guardian may, by notice in writing given to an authorised carer, remove the responsibility for the daily care and control of a child or young person from the authorised carer.

Under the power given to the Children's Guardian to resolve disputes, the Children's Guardian may use his or her best endeavours to resolve, in an informal manner, disputes that may arise in the administration of the Act and regulations between a child or young person, or a parent, relative or other person connected with the child or young person, and a designated agency or authorised carer. Another aspect of the current Act covers an application for review of order of the Children's Court. The Children's Guardian may apply to the Children's Court at any time for the rescission or variation of any order made under the Act by the Children's Court, as if the Children's Guardian were a party to the proceedings in respect of which the order was made. However, the provisions regarding the Children's Guardian to which I have referred are yet to be proclaimed!

I agree that in theory certain provisions of the bill should be supported. The Association of Children's Welfare Agencies has recommended that I support the bill. Are we completely wasting our time by passing bills that will not be proclaimed? As the Government does not resource the agencies or make them obey the law, do the agencies say that they cannot possibly comply with the provisions of the Act? Do the agencies say that although the Act sounds great, they cannot comply with it, so the bill should not be proclaimed?

In the past huge sections of this legislation were unproclaimed. As I understand it, when the legislation was introduced it was much admired, but the Government is now seeking to amend it. I ask the Parliamentary Secretary, the Hon. Henry Tsang, whether the Government will proclaim everything that is passed today, or whether this is just a bit of window-dressing before the election. Will the legislation we are dealing with tonight be proclaimed? Mr Philip Ruddock is reported in an article in the *Weekend Australian* as saying, "State legislation for child protection is not working."

It will be interesting to see whether the Federal Government takes up this issue. The Federal Democrats believe that a royal commission is necessary to sort out these problems. I find worrying the fact that the Federal Liberal Government thinks it is able to fix these problems. One of the things that Federal Liberal governments are extraordinarily bad at is the concept of the provision of universal services and the setting of standards for people at bottom of the heap. In the area of child protection those who are at the bottom of the heap economically are beset by problems that lower their incomes, such as drug or alcohol problems, or mental illnesses.

The State Government must set a standard to assist those who are unable to pay for these services. Dysfunctional families are unable to pay for such services, yet the needs of children in those families are greater. As with many things, those who are sickest are the least wealthy and those who most need child protection and decent child care are least able to afford it. The Federal Government has taken hold of health care and it is taking us as fast as it can towards an American market model, where money determines whether a person is provided with health care facilities, rather than how sick a person might be.

The Government is allowing Medicare to be overtaken by inflation, yet it criticises doctors who are not willing to work for what amounts to a rebate that is less than half the Australian Medical Association fee. The Government is taking money that could go into public health and it is putting it into private health insurance, even though the percentage of health care delivered by private health insurance remains relatively trifling in the total Health budget. The Federal Government's approach to child care is to supply tax cuts to the rich. Bronwyn Bishop is always bemoaning the fact that there should be subsidies for nannies because people need choice in regard to child care.

I find outrageous the idea that we should be giving subsidies to nannies when we do not have universal child care for children at risk. So choice in regard to child care is available to the rich and not to the poor, which is bad. The Federal Government says it will deliver universal services, that the States are not doing a good job, and that there are inconsistencies between the States, which is a major problem. I am not sure why that is a major problem. I presume it might influence large corporate concerns that want a uniform standard in the products they produce for their stock market returns. However, it is dubious that that is a real problem for the average child living within a State jurisdiction.

Perhaps the differences between the States might be used in some sort of discussion or forum to establish the optimum way of delivering services. It is hard to know what the Federal Liberal Government might do if it dabbled in this issue. However, I am not filled with any joyful expectation in relation to its general commitment to people at the bottom of the heap. I believe that those people are the ones who are most in need of child care. We require an affirmative action plan so that those who are most in need obtain most of the resources, and hopefully overcome their disadvantages. That critical element in society—equality of opportunity—should be given another run.

I support the bill but I am disturbed that the Government is introducing new legislation when it has not proclaimed earlier legislation. There is not much use in putting fine words on pieces of paper, as occurs in the Disability Services Act and the Children and Young Persons (Care and Protection) Act, when that legislation is simply not resourced. In response to agencies unable to fulfil their obligations under the Act, the Government simply does not proclaim legislation. I want a commitment from this Government to proclaim legislation it has introduced and to resource these departments so they can deliver the vision that is supposedly hidden in this complicated series of amendments.

**Reverend the Hon. FRED NILE** [5.45 p.m.]: I support the Children and Young Persons (Care and Protection) Amendment Bill. One of the most important responsibilities of the Government is to ensure care and protection for children. Obviously that primary care should come from their parents, but the Government plays an important role in providing parents with support in carrying out their role. Unfortunately, in our modern society children are more at risk than they have been at any other time. Paedophile networks are growing and men from all levels of society are involved in that activity.

Recently in Adelaide a magistrate was arrested for paedophile activity, and teachers and, sadly, even clergymen have been involved. Children must be afforded the necessary protection. Controversy over the Lewthwaite issue highlights the concerns that parents have. They believe their children are more at risk, which is why there is pressure for new laws such as Megan's law and Nicole's law. There are a number of positive aspects in this bill. It regulates out-of-school-hours care services; supports the Children's Court by strengthening and clarifying its existing functions; and protects and clarifies the rights of children and young persons to legal representation.

The bill contains a strange provision that strengthens protection for reporters. The term "reporter" is used in the legislation to describe someone who reports a case involving a child at risk or a child who has been abused. In the past the term that was used was "notifier". I believe that the term "notifier" should be restored, as the term "reporter" could be confused with role of newspaper reporters who cover court cases and play an important role in informing the public. As this terminology has nothing to do with child protection, I ask the Government to consider replacing the word "reporter" with the word "notifier".

The bill will ensure that children using out-of-school-hours care services are cared for in an environment that provides for the child's safety, welfare and wellbeing. An important law reform introduced by the bill is the regulation of out-of-school-hours care services. Currently in New South Wales some 1,500 out-of-school-hours care services provide care for more than 37,000 children each year—a major area of activity. The bill provides a broad definition of out-of-school-hours services that includes attendance by school-age children; attendance by children who are enrolled in a school but are not yet attending school; and attendance by school-attending children being cared for during school holidays.

The bill ensures that a child who exhibits sexually abusive behaviour and has not been criminally convicted for such behaviour is not prevented from accessing a court-ordered therapeutic program relating to the sexually abusive behaviour. I hope that program is successful and that children do not repeat that type of behaviour. One matter that concerns me is the provision relating to the general prohibition of the publication of identifying information and names of children and young persons who are involved in care proceedings to out-of-court proceedings, such as counselling and preliminary conferences connected to the care proceedings. This amendment furthers the protection of children and young persons before the Children's Court to non-court proceedings.

The Government has lowered the age of consent from 18 to 16. So 16-year-olds are now to be treated as adults, whereas the old-fashioned concept was that children up to the age of 18 should be protected by this prohibition. I do not think that is justified, and I urge the Government to consider lowering the age to 16. That would be consistent with other laws in New South Wales that recognise the changes in teenagers' development, both physically and socially. Some 16- and 17-year-olds involved in recent rape and murder cases are basically adults, so why should they have the legislative protection that is intended for real children? I think such protection is justified in the case of children, but not for those aged between 16 and 18 years. I ask the Government to consider reviewing the prohibition on the disclosure of identifying information. I support the bill.

**The Hon. HENRY TSANG** (Parliamentary Secretary) [5.50 p.m.], in reply: I thank the Hon. Patricia Forsythe, the Hon. Penny Sharpe, the Hon. John Ryan, Reverend the Hon. Dr Gordon Moyes, the Hon. Greg Donnelly, the Hon. Dr Peter Wong, Ms Lee Rhiannon, the Hon. Dr Arthur Chesterfield-Evans and Reverend the Hon. Fred Nile for their contributions to the debate on the Children and Young Persons (Care and Protection) Amendment Bill. The bill proposes minor and miscellaneous amendments to the Children and Young Persons (Care and Protection) Act that will, like all provisions in the Act, uphold and promote the best interests of the child. This is true of amendment 104A—the exclusion of particular persons from proceedings—to which the Hon. Dr Peter Wong referred. This change says expressly that the exclusion is to be made only if it is in the interests of the child.

As to the concerns raised by the Hon. John Ryan, the bill does not make any changes to the rules governing media attendance at Children's Court cases. In answer to concerns expressed by the Hon. Dr Arthur Chesterfield-Evans, we will proclaim every provision in the bill. The amendments confirm the Government's strong commitment to valuing children and protecting them. I commend the bill to the House.

**Motion agreed to.**

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

## **BUSINESS OF THE HOUSE**

### **Postponement of Business**

**Government Business Orders of the Day Nos 2 to 5 postponed on motion by the Hon. Henry Tsang.**

## **PARLIAMENTARY ETHICS ADVISER**

**Consideration of the Legislative Assembly's message of 8 June 2006.**

**The Hon. HENRY TSANG** (Parliamentary Secretary) [5.54 p.m.]: I move:

That the functions of the Parliamentary Ethics Adviser as set out in the resolution of the House of 5 December 2002 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 or engagement which relates to the former Minister's former portfolio responsibilities during the last two years in which the Minister held 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. Where 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.

I commend the motion to the House.

**Debate adjourned on motion by the Hon. Peter Primrose.**

## ADJOURNMENT

**The Hon. HENRY TSANG** (Parliamentary Secretary) [6.00 p.m.]: I move:

That this House do now adjourn.

## FEDERAL GOVERNMENT INDUSTRIAL RELATIONS WORKCHOICES LEGISLATION

**The Hon. GREG DONNELLY** [6.00 p.m.]: Parliament in session is sometimes not conducive to the careful and thoughtful consideration of and reflection on matters. Debates and exchanges in both Houses are often robust and innately political. That is the nature of the Westminster system under which we operate. The winter recess provided the opportunity for me to step back and examine whether or not my opposition to the Commonwealth Government's WorkChoices legislation was balanced and reasonable, or the result of a knee-jerk, jaundiced point of view influenced by my 19 years of work as a full-time union official. I do not intend to canvass the detail of the legislation in this speech. I have though, during the winter recess, examined it and read a number of books and articles on the matter that are now available.

In a matter of just three weeks, we will have made it to the six-month anniversary of WorkChoices, and its impact is out there for everybody to see. I want to make a couple of observations. A few weeks ago a senior Coalition member, whom I will not name, said that he did not appreciate that WorkChoices had abolished the application of the no-disadvantage test [NDT]. How amazing! To ensure that accepted minimum standards were not compromised, agreements—both collective and Australian Workplace Agreements [AWAs]—were tested against relevant awards including the minimum wage. The NDT required a comparison between the wages and working conditions in the whole award and those in the proposed agreement. If it were clear that the agreement was overall at least equal to or better than the award, the agreement would be certified and become legally operative. That global test has now gone.

Agreements, both collective and AWAs, need now meet only the five minimum provisions set out in WorkChoices. Blind Freddy can see that the floor has been lowered, very, very significantly. How could a senior Coalition member not know that fact? Is he a complete dill or is he not telling the truth? Judge for yourself. Either way, he stands condemned for his ignorance or dishonesty—or a bit of both. Last week a Coalition member, whom I will not name, accused me of telling lies across the North Coast of New South Wales. I claimed that thousands of workers and their families have missed out on receiving a \$20 per week wage increase as a result of WorkChoices. That is a fact. Employees whose employer is a corporation, and who were covered by State awards prior to 27 March 2006, are now employed under what are called notional agreements preserving State awards [NAPSA].

A NAPSA is a Federal industrial instrument. As a result, the \$20 State wage case increase does not flow into these Commonwealth instruments. The consequential result: millions and millions of dollars of wages not paid to workers that, but for WorkChoices, would have been. It also means lower superannuation contributions being made by employers on behalf of those workers. Annual leave and long service leave payments are also reduced. Who, though, is surprised by any of this? The legislation is doing exactly what it was intended to do: provide employers with significantly more bargaining power over employees, thus enabling them to drive down wages and related on-costs as a percentage of overall business costs.

The Liberal and National parties, at both State and Federal levels, cannot now try to run away and hide from the consequences of WorkChoices. Its impact has been, and will continue to be, harsh, unjust and unfair. Markets operate ruthlessly with quiet efficiency. They display no emotion, feelings or care. They are amoral and have no concern for notions like justice, the common good or a fair go. As I travelled the North Coast over the winter recess to places such Coffs Harbour, Woolgoolga, Grafton, MacLean and Yamba, I was quizzed time and

time again by people who asked me "Why did we have to have WorkChoices?" My answer to each and every one of them was, "We didn't have to have WorkChoices. It was imposed on us."

Even small business is bemoaning the unnecessary, unwanted WorkChoices. The majority of small business operators are good, decent employers who want to look after their employees. Awards were a good, fair base from which they could operate. They retained employees by paying the award, providing extra to those they especially wanted to reward. As we step back into the fishbowl and square up with each other once again, I must say that I am even more convinced than I was before the winter recess that John Howard and the conservative political forces in this country have made a fatal political miscalculation with WorkChoices, and they will be punished for it. Each and every one of them will be made to wear it, like a millstone around their neck, individually and collectively.

## RURAL HEALTH SERVICES

**The Hon. JENNIFER GARDINER** [6.05 p.m.]: In relation to fatal mistakes, the Carr-Iemma Government has delivered a health system in New South Wales that operates centrally from Sydney and imposes overly bureaucratic decisions on local health workers and our hospitals. As Health Minister, in 2004 Morris Iemma centralised the New South Wales public health system into eight massive regions. These arrangements do not have the capacity to tailor health outcomes to the specific needs of local communities. Promised economies of scale have never eventuated and more and more resources are being directed into administration, not the front line.

Front-line health professionals are complaining that instead of reducing bureaucracy, the restructure has increased the levels of red tape. In some places there are now seven management levels between senior clinician and the chief executive officer, up from three in one particular area health service. That, according to some doctors, makes clinician-administration communication near impossible. The disconnectedness is most strongly felt in smaller communities, which feel they finish second in competition with larger centres for health funding. Country communities constantly complain that they have seen no benefit from Mr Iemma's restructuring and health services that are handled by distant, city-based bureaucrats.

Resources that should be applied to fund front-line services are going to backroom administration. According to the 2004-05 annual report of NSW Health, 5,059 staff positions are categorised as "corporate administration". The number in that category under the Carr-Iemma Government simply goes up and up. The New South Wales Labor Government has deliberately silenced critics in the health system and used political spin to explain away problems. As a consequence, the health system is perceived as a bullying, blaming culture by many, where bureaucracy is indistinguishable from the political process. There is widespread disenchantment among hospital staff and poor morale has led to a high resignation rate among front-line health professionals.

I am happy to say the incoming Liberal-National government will replace Labor's failed area health services model with district health boards, restoring direct local involvement in the provision of local health services. Dismantling Labor's bureaucratic area health services will increase local participation in decisions about local health care provision. Replacing Labor's centralised health administration structure with greater local involvement will also free up resources to be redirected to front-line health services.

New South Wales deserves a high-quality public health care system that is responsive to local needs and draws upon the expertise and enthusiasm of people committed to caring for their communities. Labor's response to the health crisis has been to reorganise the bureaucracy. The centralised bureaucracies are imposing decisions on front-line health workers located hundreds and hundreds of kilometres away from where services are actually being delivered, or in some cases, not delivered. The needs of local communities have been pushed aside and much local expertise has vanished.

New South Wales public health patients and hardworking health workers across the State deserve better. A new Liberal-Nationals government will re-engage communities and clinicians in the delivery of local health services by appointing district health boards that will include representatives from hospitals and other health services within smaller areas and that have a community of interest and clinical referral patterns. Final boundaries for the new, smaller districts will be determined only after consultation with local communities and clinicians—unlike Mr Iemma's boundaries, about which there was no consultation with any person—not one!

District health boards will be organised to ensure that comprehensive services and expertise are available within each district. They will include non-acute community-based health services and providers as



well as hospitals. District health boards will work collaboratively with other health care providers, including non-government organisations, private providers and services funded by other government agencies. The new boards will ensure a fairer distribution of resources between country and city hospitals and between smaller and larger hospitals. They will have the flexibility to tailor solutions to meet local needs. They will be able to take into account services already provided by other agencies and identify any gaps in local health service delivery. The new boards will return community connectedness to the most important institution in each town, its local hospital.

### MENTAL HEALTH PATIENT DETENTION

**Reverend the Hon. Dr GORDON MOYES** [6.10 p.m.]: In an article dated 29 April 2006 in the *Sydney Morning Herald* the sad and sober story of a 20-year-old girl named Kylie Hope Fitter was recounted. I refer honourable members to that article. Kylie was raised in an extremely devout religious environment waited on by her mother and controlled by a domineering father. As a premature baby, she entered the world frail and vulnerable. This state of being, reflected also in her social and emotional condition, continued throughout her developmental years. Her father had rigid thoughts about God and religion, and, having been a victim of abuse as a child himself, continued to cultivate a precarious atmosphere, all in the name of protecting his children from the outside world.

As a result, Kylie became a recluse—sheltered from society, with no friends and no self-worth or self-esteem. Her social conditioning formed the platform for an unfortunate train of events that led to her being detained in prison these past five years. On 16 October 2001, while under the psychotic influence of her father and older brother, 15-year-old Kylie was asked by her father and brother to join with them in chasing and attacking an evil spirit to bring about its demise. In fact, the being that was being chased was not an evil spirit, but her mother. From her recollection, Kylie only admitted to having held the legs of the "being" down while her father and brother brought about the death of her mother, who suffered stab wounds at the hands of her husband and son.

On 22 August 2002 Kylie was found not guilty of the murder of her mother by reason of mental illness. The presiding judge made similar pronouncements over her father and brother. In the eyes and mind of the judge, Kylie was found to have been suffering from a temporary shared delusional state. Consequently, Kylie was ordered to be detained at the Yasmar Juvenile Justice Centre until and when the Minister for Health saw fit to release her. Importantly, Kylie's father has acknowledged his full culpability for the murder and has absolved Kylie of any responsibility for the event that was carried out under his influence and direction.

After suffering post-traumatic disorder and depression for some time after her mother's death, Kylie, according to her treating psychiatrists, has made a full recovery. As a matter of fact, in 2003 Kylie's psychiatrists found that she was free from any psychiatric indications, giving her a clear bill of mental health. Since 2004 the Mental Health Review Tribunal has made recommendations to successive Ministers for Health that Kylie be granted conditional release. The Mental Health Review Tribunal members, comprising a lawyer, psychiatrist and another suitably qualified person, are all versed in mental illness, and are in a good position to make recommendations on such a sensitive issue. However, on each of the four separate occasions on which the tribunal has made a recommendation for Kylie's release, the Minister at the time has rejected the recommendation.

To date, Kylie remains incarcerated in the Juniperina Juvenile Justice Centre, where she has maintained a stable and excellent profile for three years. Just today, the Forensic Executive Support Group notified of a further rejection. During her past three years in detention Kylie developed a close friendship with Bob and Janice Johnston and their four grown children. Anna Johnston, one of the daughters, initially had been asked by the chaplain to visit Kylie at the justice centre. After some initial trepidation she realised that Kylie had indeed been a victim of circumstances. The Johnstons agreed to be Kylie's carers. They are tonight seated in the President's gallery. On their initial encounters, Janice looked for signs of instability in Kylie and was reported in the *Sydney Morning Herald* as saying:

I wondered what the triggers might be ... The first time she helped me in the kitchen I wondered how she felt about knives.

But after spending some time with Kylie their original trepidations have been overcome and they accept Kylie wholeheartedly, and they now love her as their own. The Johnstons have done everything in their power to bring about Kylie's release. Cleared of any culpability for her mother's murder, but stained by the scourge of mental illness, Kylie can only hope that the appropriate Minister will exercise his or her powers to grant her a release

soon. It is to that end that I have been circulating petitions urging the relevant Ministers to release Kylie from detention. As honourable members will know, I presented a petition on this matter with 1,500 signatures just a week or so ago. With the burgeoning rate of persons suffering from mental illness and limited public resources, it is only right that persons like Kylie are released to join the community. There is no worldly reason for Kylie to continue to be detained. If political expediency is to blame, it is a sad state that such young and vulnerable persons like Kylie become caught in the middle. I urge honourable members to seek the release of Kylie Hope Fitter.

### CLEANERS PAY AND CONDITIONS

**The Hon. IAN WEST** [6.15 p.m.]: I speak tonight in support of cleaners in Sydney who are campaigning on a State, national and international basis for fairer pay and conditions for the essential work that they perform. The Clean Start campaign has been running since April this year and is being organised by the Liquor, Hospital and Miscellaneous Union Cleaners Union Cleaners Union [LHMU]. Thousands of cleaners across Australia and New Zealand have participated to date in raising their claim for a fair deal. I recognise and salute cleaners and LHMU officials for their efforts to raise awareness of the vital tasks that cleaners perform and the challenges that they face in the workplace.

Cleaners often are unrecognised and unseen, performing work from the late evening and early morning hours to ensure safe and healthy workplaces for office workers and others—which we often take for granted but cannot do without. Cleaners are angry that they are the ones to bear the burden of cost cutting from both building owners and cleaning contractors. They have had enough, and are demanding that they are paid enough to survive and are given enough time to do their job. These are simple and fair requests for dignity.

I take this opportunity to highlight a current example of the challenges faced by cleaners working in Sydney CBD buildings. These challenges are being made worse by John Howard's Federal WorkChoices legislation, which is being used by management and directors to deny workers and their families a fair go at work. One of the leading contract cleaning companies in Australia—known as Broadlex, which previously had been regarded as a reasonable company to work for—appears to have made a change for the worse.

Broadlex, which currently boasts annual revenues of up to \$70 million, is refusing to pay a 3 per cent pay increase to its Sydney CBD workers—the very people who make possible the revenue and profits made by Broadlex. Most other companies in the Sydney CBD, such as ISS, Glad Cleaning, Bayton Cleaning, Reliance and others, are paying their workers an agreeable rate. But Broadlex is walking alone. One man in particular should know of the challenges faced in making ends meet—Mr George Tsivis. Mr Tsivis is a co-owner of the Broadlex company. I have watched Mr Tsivis rise from immigrant cleaner to become a powerful company director. But he is mistreating the hundreds of mainly immigrant cleaners he now employs to work in major Sydney CBD office blocks. He has turned his back on the very people that he should be defending.

Mr Tsivis would know only too well how tough it is for immigrants trying to get a toehold in Australian society. Though he has climbed the ladder, he now seems ready to use John Howard's laws to kick away the ladder from under other immigrant workers. Broadlex has repeatedly failed to respond to the cleaners' request for a 33¢ an hour pay increase, which other cleaning companies began paying on 1 July this year. Ever since Howard's harsh new work laws were introduced this year, cleaners have watched the management culture at Broadlex change. Broadlex used to be a company eager to maintain a positive relationship with its workers and their union.

Broadlex appears to have put itself firmly in the picture for the Golden Toilet Brush, an award presented to the company that does the least for its workers. In June this year, when hundreds of cleaners around Australia marched to award the Golden Toilet Brush to the worst property owner, a cleaner's representative was ejected from a Brisbane building by police, and dozens of cleaners and their supporters in Perth were threatened with arrest for demanding better working conditions. The current race to the bottom in the cleaning industry, which is made easier by Howard's no choices for workers legislation, has a human cost. When awarding cleaning contracts depends so often on price, it is individual cleaners and their families who bear the burden. It takes courage and principles to stand up to the worst excesses of employers, especially when you are trying to make a start in a new community and when one word out of place means that you no longer have a job. I congratulate the cleaning workers from Broadlex on taking a stand for themselves and their families. I look forward to assisting them in their claim for a fair deal at work.

## MANIFESTO ON FREEDOM AND DEMOCRACY IN VIETNAM

**The Hon. DAVID CLARKE** [6.20 p.m.]: The disintegration of the Soviet Union and the collapse of communism in Central and Eastern Europe in the closing years of the twentieth century gave great hope to those who oppose totalitarianism, dictatorship and suppression of human rights. For hundreds of millions of men, women and children to be liberated from communism after decades with such speed and with such little loss of life is, in many ways, a miracle of our times. But that spread of freedom, that advance of democracy and that demise of communism did not extend to every nation in which communism held sway. For example, it did not extend to Vietnam, where the communist regime has one of the world's worst records of suppression of human rights. Australia has several hundred thousand citizens of Vietnamese origin, who are living testament to the corrosive and brutalising human rights violations of the communist regime in Hanoi. That is why they came here in the first place. That is why they crossed perilous seas. That is why they left their possessions behind them. On the whole, they have been remarkably successful blending into the fabric of Australian life and in readily accepting the values upon which Australia thrives as a nation of freedom and democracy.

But Australia's Vietnamese community has never forgotten that up to 80 million others cannot escape Vietnam's communist regime—a regime that denies them political and religious rights, and a regime that is incapable of delivering them a reasonable economic existence unless, of course, you are part of the Communist Party elite, who hoard economic wealth and privilege to themselves. Anyone who has had any involvement with the Vietnamese-Australian community would know that it is totally united in working for a truly free Vietnam, which can join other free nations of the world. I pay tribute to the Vietnamese community for having achieved success in Australia without forgetting about those who languish in Vietnam. Almost two years ago I attended the launch in Sydney by some 800 Vietnamese Australians of the New South Wales Branch of the Viet Tan, or the Vietnam Reform Party, a worldwide movement dedicated to a democratic Vietnam. Today I draw the attention of the House to an event of great significance for the cause of a free Vietnam. On 8 April this year 116 citizens of Vietnam, residing in Vietnam, issued a proclamation entitled "Manifesto on Freedom and Democracy for Vietnam".

Those 116 citizens represented all strata of Vietnamese society—academics, religious leaders, representatives of the professions, farmers, tradespeople and various community leaders. The proclamation is formally addressed to "All Vietnamese compatriots inland and overseas, and the world community of advocates for democracy in Vietnam". The manifesto calls for freedom of political association and independent political parties because in today's Vietnam all political power has been usurped by the Communist Party. It calls for genuine religious freedom because in today's Vietnam religious freedom is a sham, regardless of whether you are a Buddhist or a Christian, or a member of any other religious faith tradition. It seeks the right of all citizens to a better life through access to economic opportunities because at present only the Communist Party elite and their sidekicks have such access. It seeks freedom of expression and freedom of the press to replace the suppression of free speech and the monopoly of all media in the hands of the Hanoi regime. Above all, it seeks democracy in Vietnam.

In the last few months thousands of others have joined the original 116 signatories to the manifesto, despite the fact that the original signatories have faced harassment and persecution. Their homes have been searched. Their mobile phones and computers have been confiscated. Frequently they have been detained for questioning. They have been forbidden from travelling abroad and, in some instances, they have been physically intimidated. Both inside and outside Vietnam support for the manifesto is escalating. Some 50 members of the United States of America Congress have signed an open letter of support. Many of the initiators of Charter 77, the declaration that ignited the freedom movement in Communist Czechoslovakia, have signed the manifesto, including former President Vaclav Havel.

Only a few weeks ago I was one of many who spoke at a rally in support of the manifesto. The rally was organised by the Vietnamese-Australian community and was held in Freeman Plaza in Cabramatta. On that occasion, together with Michael Hatton, the Federal member for Blaxland, I spoke by mobile phone to two of the original signatories who still live in Vietnam. Both Michael Hatton and I made a commitment to them that we would publicise their manifesto in Australia, and that is what I am doing today and what I will continue to do. The more the manifesto is published, the more the searchlight of a free world will focus on human rights abuses in Vietnam. The more the manifesto is promoted the more those brave dissidents in Vietnam will be encouraged, and the cause of freedom in Vietnam will grow. What a great and noble cause it is to publicise and promote the cause of a free Vietnam.

### CASA PALOMA CARAVAN PARK

**Ms SYLVIA HALE** [6.25 p.m.]: I speak about an important decision to be made by Liverpool City Council in coming weeks. It is relevant not just to the Liverpool area but also across the State because it illustrates the rising significance of the affordability of housing for low-income earners and welfare recipients. The Government's refusal to increase the stock of public housing to match the growth in demand has meant that many low-income earners and welfare recipients are forced into the private rental market. Many find that the only accommodation they can afford is in residential parks, but this is becoming an increasingly insecure form of housing. The reason for the insecurity is illustrated by the situation faced by the residents of the Casa Paloma Caravan Park in Leppington. In November 2005 a development application was submitted to Liverpool City Council by Berlyn Properties Pty Limited for redevelopment of the existing caravan park into 256 manufactured homes sites. The existing park has approximately 80 sites in use, with a mixture of people who own their dwelling and rent the space and those who rent both the dwelling and the space.

The council delayed making a decision for some months because it was waiting for more information from the developer on various flooding and ecological issues. The developer then lodged an appeal to the Land and Environment Court on grounds of deemed refusal. In June 2006 resident Lynette Goldsmith was joined to the proceedings. An extensive social and economic impact assessment prepared for the court has shown no viable alternative accommodation for these residents in the local area. Entry prices of around \$100,000 will stop existing residents staying at the redeveloped park, and alternative low-cost accommodation in the Liverpool local government area is very scarce. In August solicitors told the court that the flooding and ecology issues would soon be resolved. Council has now referred the matter to its Independent Hearing and Assessment Panel [IHAP], a body set up by the council to resolve issues around development applications. The IHAP hearing will take place this week on 7 September. I understand that council officers are now supporting the developer's application.

The redevelopment of Casa Paloma will result in the loss of 256 affordable housing units from the Liverpool local government area. At a time when people are being forced to move out of Sydney because housing is so expensive, this will be a significant reduction in the stock of affordable housing in Liverpool. Around 100 residents of Casa Paloma will be forced to find somewhere else to live—an almost impossible task given that they are all on low incomes. The developer's proposal to relocate many of the existing residents to accommodation outside of Sydney demonstrates clearly that this is a process of reducing the level of affordable housing in this city. Gabrielle Kibble, the Government-appointed administrator of Liverpool City Council, has a responsibility to the whole community to ensure that affordable housing is available in the area for people on all income levels. It is not the council's role to just toss out 100 long-term residents so that a lucrative development can proceed.

The development should not proceed until all existing residents are either successfully relocated to alternative low-cost accommodation in an area acceptable to them or they have been appropriately compensated. But it is not only Liverpool City Council that has responsibility to ensure there is adequate stock of affordable housing. The State Government also needs to ensure that Sydney is a city and New South Wales is a State that provides affordable housing for people on all income levels. This problem is not restricted to this particular park. Around New South Wales developers are looking at residential parks as potential development sites. It is not acceptable for those on low incomes living in residential parks to be shifted around the State as developers buy, empty and redevelop these parks. The State Government should consider introducing statewide planning controls to provide better protection for low-income residents of residential parks across New South Wales, and prevent the wholesale relocation of residents.

The State Government must also introduce genuine initiatives to increase the stock of affordable housing. The Prime Minister's recent call to simply release more land is not the answer. While it may reduce housing prices marginally in a sluggish market, prices will rise again as soon as the market strengthens. In the long term this will do nothing for low-income earners. To effectively address this issue the State Government must enlarge the stock of public housing, expand the requirements for affordable housing units in all major housing developments, and give better protection to those currently living in residential parks. Gosford City Council's affordable housing LEP provides a useful model for protecting the rights of residents like those at Casa Paloma. I commend it to both the State Government and Liverpool City Council.

**Motion agreed to.**

**The House adjourned at 6.30 p.m. until Wednesday 6 September 2006 at 11.00 a.m.**

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