LEGISLATIVE COUNCIL

Wednesday 6 September 2006

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The Chair of Committees (The Hon. Amanda Ruth Fazio), in the absence of the President, took the chair as Acting-President at 11.00 a.m.

The Acting-President offered the Prayers.

AUDIT OFFICE

Report

The Acting-President announced the receipt, pursuant to the Public Finance and Audit Act 1982, of a performance audit report of the Auditor-General entitled "Educating Primary School Students with Disabilities: Department of Education and Training", dated September 2006.

Ordered to be printed.

UNPROCLAIMED LEGISLATION

The Hon. Eric Roozendaal tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 5 September 2006.

PETITIONS

Anti-Discrimination Legislation

Petition requesting support for the Anti-Discrimination Amendment (Equality in Education and Employment) Bill and the Anti-Discrimination Amendment (Sexuality and Gender Diversity) Bill, received from **Ms Lee Rhiannon**.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 1 and 2 postponed on motion by the Hon. Tony Kelly.

BUSINESS OF THE HOUSE

Discharge of Business

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

PARLIAMENTARY ETHICS ADVISER

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

Debate resumed from 5 September 2006.

Ms LEE RHIANNON [11.09 a.m.]: This Legislative Assembly motion about the activities of ex-ministers and ex-premiers is totally inadequate. It provides no solution to the increasing propensity of ex-ministers and ex-premiers, on leaving the public sector, choosing to take their knowledge of the networks and the workings of government to the private sector. The people of New South Wales have been reminded time and time again that rules need to be in place that determine when ex-ministers and ex-premiers can take up

corporate jobs. The quick exit to the private sector of the likes of Bob Carr, Nick Greiner, Richard Face and Craig Knowles has been an embarrassment to the major parties. But when it comes to Labor in this motion today we clearly see that it is wishy-washy.

The action of those ex-ministers—the rush to work for the private sector—damages not only the major parties but also the democratic process. People become more cynical about the role and independence of our leaders. The Greens have no trouble with anyone taking up jobs with the private sector: the issue is the timing of it. We need substantial restrictions on the conduct of Ministers when they first leave Parliament. We need a cooling-off period. Other countries have faced up to this problem. The United States of America and Canada have good models. The United States of America places a two-year ban on Ministers taking up positions in areas covering their former portfolio responsibilities, and a breach attracts imprisonment, a fine, or both.

Today the House should be debating legislation to enact such a cooling-off period and not this motion, which is a weak excuse for dealing with a very real problem. The Legislative Assembly passed this motion but it fails miserably to increase the level of accountability for retiring Ministers as recommended by ICAC. The new rules are very weak, nothing more than self-regulation. All they do is require retiring Ministers to ask for ethical advice about their future job prospects. Former Ministers—Bob Carr, Nick Greiner, Richard Face and Craig Knowles—all demonstrated that the self-regulation of ethics does not protect the public from a conflict of interest. The double standards of the Labor Government and the Coalition are clearly on display.

This State has legislation that restricts the jobs that ex-police and liquor and gaming officials can take, but it has no legislation for members of Parliament, who have far greater power and influence. If anyone believed former Premier Carr, this issue would have been solved long ago. More than four years, on 11 February 2003, Mr Carr gave a commitment to ban retiring government Ministers from starting up private consultancies. Mr Carr made his promise six weeks before the last State election. But post-election the former Premier did nothing on this issue. Then in June 2004 the Labor Government was given more reasons to act. ICAC released its recommendations following its investigation into the actions of Mr Richard Face on leaving Parliament. But still Premier Carr did not act.

We had to wait another two years, and all the Government comes up with is this washed out motion which contains no sanctions and no cooling off period. By thumbing its nose at ICAC's June 2004 recommendations, Premier Iemma has failed to deliver on his predecessor's promise. This is ugly politics—ignoring the need to increase public confidence in the process of government so ex-ministers can pick up a nice little earner. Again, I am emphasise this is not about stopping ex-premiers and ex-ministers taking up corporate jobs; it is about bringing in a cooling-off period. ICAC pointed out that Ministers receive substantial incomes and entitlements while in office which provide padding for such a cooling-off period. The potential for corruption is significant when ex-ministers leave Macquarie Street and immediately take up jobs with big business. ICAC recognised that problem and in its report "Investigation into conduct of the Hon. J. Richard Face" it states:

> Restrictions on post-separation employment are not exclusively a public sector concern and restrictive covenants in employment contracts are common in the private sector. They typically occur in occupations that rely on specialised technical or professional expertise and are designed to protect the proprietary interests of employers in the information, knowledge or relationships that help sustain their business.

It continues:

> Post-separation employment restrictions in the public sector protect the public interest in two principal ways. They are designed to ensure that government decisions are made on their merits, unaffected by any personal interests of their members or former members. At the same time, by attempting to prevent former public officials taking inappropriate advantage of information or influence acquired in their previous positions, restrictions can also help to minimise unfair competition in business practice.

The report continues:

> Post-separation employment restrictions are intended to prevent several kinds of corrupt conduct including:
>
> - Public officials modifying their conduct to improve their private sector employment prospects, for example, by making decisions while in office to unfairly favour a potential employer;
> - Confidential government information being used to advantage former officials or their new employer or clients; and
> - Former public officials trying to improperly lobby or influence serving public officials to make decisions in their favour.

These proposed guidelines deal only with confidential information; but influence, as ICAC said, is just as important. I move:

> That the question be amended by omitting all words after "That" at the commencement and inserting instead:
>
> > the Government introduce legislation to provide for post-separation employment practices of Ministers and former Ministers in accordance with recommendations 9 and 10 of the Independent Commission Against Corruption report on investigation into the conduct of the Hon. J. Richard Face, dated June 2004.

Reverend the Hon. FRED NILE [11.17 a.m.]: The Christian Democratic Party agrees with Ms Lee Rhiannon and is also concerned about the best way to deal with this very important and sensitive issue, particularly with a State election next March, when a number of Ministers and honourable members will willingly or unwillingly leave Parliament. I believe that the Government's proposals for the functions of the Parliamentary Ethnics Adviser should remain and not be deleted—Ms Lee Rhiannon's amendment would delete them—so that the adviser has a formula to follow. The motion gives guidance to Ministers and honourable member as to what is required of them. I move:

> That the question be amended by inserting after paragraph 5:
>
> 2. That the Government introduce legislation to provide for post-separation employment practices of Ministers and former Ministers in accordance with recommendations 9 and 10 of the Independent Commission Against Corruption report on investigation into the conduct of the Hon. J. Richard Face, dated June 2004.

If that amendment were adopted the Government would have to introduce new legislation in place of guidelines. With the dilemma of an election next March the legislation will take some time to draft and it is unlikely it will be introduced before then. However, in the interim the role of the Parliamentary Ethics Adviser would be clearly defined.

Ms SYLVIA HALE [11.19 a.m.]: I support the amendment moved by my colleague Ms Lee Rhiannon. One could well ask: What do Bob Carr, Craig Knowles, Larry Anthony and Michael Wooldridge have in common? At first glance, not all that much. The first two are from the Labor Party and were leading members of the Government that has run this State for the past decade; the latter two were Cabinet members of the Federal Coalition Government, which also has been in power for a decade. But it is in the field of lucrative post-ministerial jobs that we can see their commonalities.

Since leaving ministerial office, all have fallen, if not onto their feet, then certainly into nice, very well remunerated jobs. While I would hesitate to accuse our former Premier of hypocrisy, it was only in February 2003 that he publicly addressed the issue. He assured us that "the concept of a cooling-off period in Federal or State politics ... has some value. I'll have a look at it and make an announcement before the [election] campaign". As we know, he never managed to look too closely at it, but he certainly did manage to gain some lucrative employment for himself with Macquarie Bank after leaving office.

And it was only a year ago that the current Premier, on taking office and trying to pretend that this was a new Government, also promised to look into a code of conduct for Ministers. But, despite the Cabinet Office having worked on options since the 2004 Independent Commission Against Corruption report on Richard Face, Premier Iemma was not quick enough to have them in place before Bob Carr took up his job with Macquarie Bank. And we all know that Macquarie Bank can certainly afford the best ex-politicians that money can buy. In January this year the current Premier assured us that Cabinet would consider new rules "shortly". We can only presume that Cabinet is still considering them.

While other countries have introduced strict laws to govern the employment of Ministers immediately after they leave politics, in New South Wales those proposed laws are like the horizon—forever in the distance, never quite within our grasp. Why do we need laws with such strict provisions? The fact is that departed Ministers enjoy impeccable access not just to their colleagues still in office but also to their former departments. Many senior bureaucrats of those departments may owe their jobs to the Minister's patronage. So it is in this context that we are here today to debate introducing legislation that would put into place recommendations 9 and 10 of the Independent Commission Against Corruption's report on its investigation into the conduct of the Hon. J. Richard Face.

The ICAC report was quite clear on what should be done. It recommended that the Government introduce rules to restrict the range of employment that Ministers can take up immediately after leaving office. Given the examples of not only former Minister Face and former Premier Carr but many others, is it any wonder

that public confidence in the integrity of parliamentarians needs to be bolstered? It is to address both the ethical issues involved and to help restore public confidence in us as parliamentarians that we should legislate to introduce the ICAC recommendations. And we need to do this now, not sometime in the never-never. As John Maynard Keynes pointed out when someone assured him that certain things might occur in the short term, if we wait for the short term, "in the long-run we will all be dead".

There is material readily available to assist the Cabinet Office to speed up its rigorous search for the best model. One option is the British model, where, for two years after they retire, Ministers are required to use an ethics advisory service within Parliament before taking jobs in the private sector. In the United States of America a different approach is taken. The 1978 Ethics in Government Act introduced limitations on future employment of members of the executive government, including officeholders equivalent to Ministers.

The limitations are aimed mainly at lobbying and include a permanent restriction on lobbying or advocacy on transactions in which the Government is a party and the official participated "personally and substantially" while in office, plus broader two-year restrictions on lobbying on anything in which the former politician would personally have known about in the final year in office. Penalties are a year in prison, a fine, or both. The restriction can be waived by the President or the Office of Ethics, but only on certain conditions.

At the Federal level in Canada, the system is similar to that in Britain, with Ministers and certain officeholders required to consult an ethics counsellor before taking any offers of employment after they resign. But the Canadian system goes further, making it mandatory for ministers to disclose any offers of employment they received while in office. It also combines elements of the United States regime by imposing a two-year ban on employment with any company with which the former Minister had significant dealings in the last year in public office, as well as more general limits on advising on lobbying on areas of policy for which they were responsible in the year before leaving.

If legislation like this were in place here, perhaps people like Bob Carr, Richard Face, Craig Knowles, Larry Anthony, Peter Reith, Michael Wooldridge, John Fahey and Richard Alston might be financially poorer, but Parliament and its members undoubtedly would be richer in their standing in the community. And, what is more, the Government might also impress the voters!

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.26 a.m.]: This is an absolutely extraordinary motion. Indeed, it is made for the satirists. I wonder what Mike Carlton might do with it—if it is not too abstruse for him to have a bash at. The motion provides that if an ethics adviser is asked, he must give advice. It provides further that if he considers the proposition put to him to be unethical, he must refer it to the Presiding Officer. Of course, this assumes that he is asked. If he is not asked, presumably he will not have to do anything.

It is extraordinary that the motion would compel him to give an answer if he is asked. Presumably, someone paid to give advice will give advice. It would be quite extraordinary if he did not give such advice when asked. Anyone who has such a job would do that, if that is what the adviser is paid to do. But the motion says that the Ethics Adviser must give advice if he is asked. It does not stipulate that he has to be asked. So if he is asked and gives advice that the proposal is unethical and then sends it to the Presiding Officer—

The Hon. Jan Burnswoods: He could be she.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My understanding is that the current holder of the office is a male. I acknowledge the interjection that at some future date the Ethics Adviser could be a female. The point is that if the Ethics Adviser is asked and thinks what is being proposed is unethical, he or she will then contact the Presiding Officer. It might well be that the person taking the position does not want to ask the Ethics Adviser, and does not therefore ask the Ethics Adviser and simply ploughs on—in which case this motion, happily for that person, becomes irrelevant.

I note the comments made by Ms Sylvia Hale about Richard Face, Premier Carr, Craig Knowles, Larry Anthony, Michael Wooldridge, Peter Reith and so on. The motion, of course, does not mention senior public servants. The head of the Cabinet Office, Mr Wilkins, went to a job that certainly involves dealings with government but, since he is a fine chap, it does not matter! The motion must be considered in the broader context. It and legislation should deal not only with politicians but also with senior public servants who skip in and out of direct government employ to positions with major contractors.

Contractors, under private-public partners, have huge dealings with government. Indeed, they have replaced huge chunks of the public service and take over the exercise of their public functions, entering into arrangements that increasingly are subject to Cabinet confidentiality. Suddenly we hear, "This is business, commercial in confidence, and the terms and conditions cannot be transparent." The result is that the public and the Opposition cannot know anything about it. In this environment, it is even more concerning that people moving from government employment into the private sector, and possibly back again, provides immense opportunities for advantage for their employers over other competitors, or venality in what they do.

It is worrying that the former Minister for Housing is criticised for having an interest in a company that bought surplus housing at what would appear to be below market price. The houses were resold at a huge profit in an almost negligible time, which would suggest that the price was not right. Suggestions of a relationship between Ministers and the private sector are of grave concern. The motion is like throwing a feather at a tank. If the satirists get hold of this I reckon they will have a field day. The Greens have moved a very sensible amendment to the motion that Reverend the Hon. Fred Nile has incorporated within his motion to make the original fairy floss motion more hard hitting. However, the Greens amendment does not set a date by which the Government should be ready to enact legislation. Therefore I move:

> That the amendment of Reverend the Hon. Fred Nile be amended by inserting at the end "and that a draft of this legislation be made publicly available by 28 February 2007."

It would then become an election issue and we would know the Government's intention. If the Opposition had the courage to do so, it would consider the appropriate legislation and its policy on it.

The Hon. Don Harwin: Why don't you wait until I speak before you say nasty things about the Opposition?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I have stated that the Opposition has the choice. I would be delighted to hear Don Harwin take up the challenge and state the Opposition's good intentions. I suggest that a draft should be available by 28 February next year, which is just before the election, so that people can lock in a concrete proposal to the election process. We know very well what the public thinks about this issue. The Greens amendment has improved this fairy floss motion, and my amendment will put some teeth into it in an election context. I commend the amendment to the House.

The Hon. PETER BREEN [11.32 a.m.]: The motion should be supported as it stands. The amendment by the Christian Democratic Party to retain the Ethics Adviser and, at the same time, to enact legislation that requires Ministers to remain out of public employment for two years following their resignation would give the government of the day an option of either referring the matter to the Ethics Adviser or enforcing the legislation. My experience with the Ethics Adviser is that he or she—he, as it is at the moment, Mr Dixon—runs what I would call a very haphazard organisation. I recall writing to Mr Dixon in 2002 about two matters, one being a question about the Sydney allowance. I received a letter from Mr Dixon on exercise book stationery. There was no letterhead and there were no phone numbers on the letter. It was what I would call an unprofessional response to a serious request, which became very important in the subsequent ICAC investigation into my use of parliamentary resources and allowances.

Similarly, in September 2002 Ms Lee Rhiannon and I wrote to Mr Dixon about the Malcolm Jones matter, which concerned parliamentary resources being used to set up front parties. Mr Dixon's response was, in my opinion, very unprofessional and very unhelpful as things turned out. Mr Dixon is not in a position to advise Ministers appropriately to achieve the high standard of responsibility required of those who have served the people of New South Wales and move into the private sector. The opportunities for corruption and paying back old debts are simply too open and too obvious for such a move to be regarded as credible. It is interesting to note that under Nick Greiner the Coalition had a ministerial code of conduct, a copy of which I obtained from the Parliamentary Library.

The Hon. Don Harwin: Have you ever tried to get a copy of the current Government one, or are you coming to that?

The Hon. PETER BREEN: I have a copy of the current Government one. The current code of conduct for Ministers is in the handbook for members.

The Hon. Don Harwin: How old is it?

The Hon. PETER BREEN: It is dated July 1995.

The Hon. Don Harwin: Is it the current one?

The Hon. PETER BREEN: It is the current, enforceable code of conduct for Ministers. As a matter of interest—and the Hon. Don Harwin would be interested in this—it is word for word Nick Greiner's ministerial code of conduct, with the exception of item 7, which is headed "Post-Separation Employment". In other words, under Nick Greiner a ministerial code of conduct in relation to post separation employment was in place. It clearly provided:

> A Minister shall not, within two years of retirement or resignation, accept offers of employment from or become otherwise engaged in the internal management of the affairs of persons, companies or other bodies, any of which is here referred to as a relevant organisation.

A number of items are listed, all of which relate to Ministers' conduct being in conflict with the position they held as Minister and their subsequently going into the private sector. It is a rort of their position in Parliament and it is an affront to the people of New South Wales that Ministers would spend time in government, taking money from the public purse, and then use that experience, opportunity and privilege to move into the private sector and, in many cases, double their income. Some proper restraints should be in place.

The recommendation of the ICAC inquiry into Minister Face is a good place to start. The findings of ICAC in relation to Minister Face were an anomaly. Honourable members will recall that Minister Face's problems started when he used a staff member to apply for the registration of either a business name or a company. In that case ICAC found that his conduct could not be termed corrupt conduct, nor was it a serious misuse of Parliament's resources and allowances. The adverse finding in the case of Minister Face related to the taking of stationery and stamps.

It is worth comparing the finding regarding Minister Face with the findings in relation to other Ministers who have left their office, gone into the private sector, and obtained vast amounts of money in excess of what they were receiving as Ministers. As I recall, Minister Face used his own resources to set up his parliamentary office when he was first elected. He believed he was simply getting back what he was entitled to. It is laughable that he should be the subject of a finding of corrupt conduct in relation to the taking of stationery and stamps when one compares those circumstances with, for example, Bob Carr going into Macquarie Bank, Craig Knowles going into his employment, or Ministers of the Crown taking on any other employment as a matter of course.

It was interesting to hear the Treasurer, when leaving the Chamber during debate this morning, use the words "I can't listen to this crap." I suspect that the reason he cannot listen to it is that he knows how important it is for Ministers of the Crown to have some kind of restraint. As things stand, it is open slather for them to leave their ministerial positions, take advantage of their privilege and their important position in the community, go off into the private sector and, in effect, exploit their position and the people of New South Wales. I urge honourable members to support the original motion as moved by the Greens. It should not be watered down, as Reverend the Hon. Fred Nile has suggested, because we do not need an Ethics Adviser who is not in a position to provide—

Reverend the Hon. Fred Nile: I am not watering it down; I am adding to it.

The Hon. PETER BREEN: Reverend the Hon. Fred Nile is providing an option for the Government to either go down the track of the Ethics Adviser or enforce the legislation.

Reverend the Hon. Fred Nile: No, it is not an option.

The Hon. PETER BREEN: In my opinion, that is what Reverend the Hon. Fred Nile's amendment will do.

Reverend the Hon. Fred Nile: My amendment enhances it.

The Hon. PETER BREEN: If that is the position, I withdraw my remarks about the amendment moved by Reverend the Hon. Fred Nile because we need as many enforcement mechanisms in place as is possible. If we have the Ethics Adviser and the legislation, that is a good position and I support it.

Debate adjourned on motion by the Hon. Peter Primrose.

PHARMACY PRACTICE BILL

POLICE AMENDMENT (POLICE PROMOTIONS) BILL

Bills received.

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

Motion by the Hon. John Hatzistergos agreed to:

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

Bills read a first time and ordered to be printed.

PHARMACY PRACTICE BILL

Second Reading

The Hon. JOHN HATZISTERGOS (Minister for Health) [11.41 a.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.

I have pleasure in introducing the Pharmacy Practice Bill. This Bill will protect the health and safety of the public of New South Wales by updating and enhancing the effective regulation of pharmacy practice.

The Bill will replace the Pharmacy Act 1964. The legislation contains more robust professional regulation similar to recent improvements to the regulatory systems for other health professionals, such as medical practitioners and dentists.

The pharmacy profession, and the business of pharmacy, is highly regulated at a federal level. State Governments register pharmacists and set standards for pharmacies. The Federal Government controls the overall number and location of pharmacies via the Pharmaceutical Benefits Scheme.

In recognition of this national dimension to the regulation of pharmacy the Council of Australian Governments agreed to conduct a joint national review of pharmacy legislation and the Pharmaceutical Benefits Scheme provisions of the National Health Act. The Council of Australian Governments accepted the Final Report of the Review and referred it to each state for implementation in August 2002.

Since that time the NSW Department of Health has been engaged in extensive consultation with all relevant stakeholders in the health and pharmacy sectors.

I would particularly like to place on the record the government's thanks to the members, registrar and staff of the NSW Pharmacy Board who have given of their time and practical expertise to ensure that the Bill that I have presented today is administratively rigorous.

The Pharmacy Guild has played a role in strongly advocating for pharmacy businesses continuing to be owned and managed by professional and accountable pharmacists. I turn now to those provisions of the Bill and provide an explanation of their operation.

Honourable members will be aware that pharmacy businesses and pharmacists enjoy a privileged and protected position within the community. The primary rationale for that privileged position is the important role of pharmacy in the integrated community health care system.

Professional pharmacists are a vital link in the chain of effective health care delivery and are gatekeepers to public access to important drugs and medications. Members will be aware of the potentially disastrous consequences that can arise from inadequately supervised access to medications, most notably drug dependence and adverse reactions to individual drugs or drug combinations. Ensuring that pharmacy practice remains committed to the delivery of professional high quality health care services will help to address these adverse consequences.

The Government is vitally concerned that pharmacy continues to be in a position to serve as a shop front source of health care services, information and advice. This role includes pharmacy's contribution to delivering methadone and buprenorphine treatments to drug dependent people under the NSW Opioid Treatment Program.

Consistent with the Government's support for pharmacist owned and controlled pharmacies, Part 3 Division 2 of the Bill contains detailed provisions concerning the ownership of pharmacies. Section 25(1) of the Bill provides that only registered pharmacists, partnerships of registered pharmacists and corporations made up exclusively of registered pharmacists may hold pecuniary interests in pharmacy businesses. Honourable members will however note section 25(2), which provides that a non-pharmacist may have a pecuniary interest in prescribed circumstances.

A provision to the same effect exists in the current Pharmacy Act and is designed to address circumstances such as where a community is in need of pharmacy services but is unable to attract a pharmacist prepared to invest the capital to establish a pharmacy business. In those circumstances regulations could be made authorising an organisation such as a local government authority or an aboriginal health service to hold a pecuniary interest in a pharmacy business. I emphasise that in these circumstances a registered pharmacist would be in charge of the pharmacy at all times and all professional pharmacy services would have to be undertaken by a registered pharmacist.

There have been concerns raised with me that the regulation making power is too broad and that the potential exists for a future government to make regulations allowing generally for non-pharmacy corporations such as supermarket chains to own and operate pharmacy businesses. I wish to place on the record the Government's view that any such action would be contrary to one of the philosophical underpinnings of the Bill that pharmacies should be owned and operated by pharmacists and the Government reiterates its assurances to the pharmacy profession that the regulation making powers would not be used in this way.

On the subject of supermarkets I draw honourable members attention to section 1(8)(b) of schedule 2 of the Bill. That section provides that the Pharmacy Board may not approve pharmacy premises that are co-located with a supermarket. This provision is designed to ensure that pharmacy businesses remain independent of the commercial pressures that may be imposed by close relationships with supermarket chains and their key focus on high turnovers and profits.

The Federal Minister for Health has recently approved new pharmacy location rules for the Pharmaceutical Benefits Scheme via a determination under section 99L of the National Health Act. Amongst other things those rules have the effect of preventing the co-location of supermarkets and pharmacies in the same fashion as that proposed by the Bill.

That brings me to section 26 of the Bill, which provides an exception from the ownership restrictions for certain friendly societies. As honourable members will be aware a friendly society is a mutual organisation that exists for the purpose of providing benefits to its members and does not seek to generate profits for the purposes of paying dividends. In the case of friendly society pharmacies any surplus funds that the business generates are returned to members via lower prices for products in the pharmacy.

I am advised that there are five friendly societies operating a total of eight pharmacies in New South Wales. Section 26(1) of the Bill provides that a friendly society may apply to the Minister for approval to own a pharmacy business. Before granting that approval the Minister must be satisfied that all the profits arising from the business will be returned to members by way of benefits and that the operation of the pharmacy is in the interests of the members of the friendly society, the public or both. Sections 26(5), (6) and (7) operate to provide that existing friendly society pharmacies may continue to operate without being required to obtain further approval.

There is a lengthy history of friendly society pharmacy in New South Wales. The initial such businesses were established at a time prior to the introduction of the Pharmaceutical Benefits Scheme and as not for profit entities they were able to supply important medications and pharmacy service at an affordable cost thereby delivering an extremely important service to their members and the community as a whole. While the existence of the Pharmaceutical Benefits Scheme now renders some of the original rationale for the existence of friendly society pharmacies redundant, the Government is firmly of the view that friendly society pharmacy continues to play an important role in the overall scheme of community pharmacy.

Section 27 of the Bill provides further exemption from the ownership restrictions for those corporations that owned pharmacy businesses prior to 5 October 1990. I am advised that there are eight such "grandfathered" pharmacy businesses in New South Wales. While these businesses are an historical anomaly, it is appropriate that existing interests and entitlements be preserved subject to the same conditions under which they currently operate. I emphasise that no additional corporate owners can be created and that this category is limited to the eight corporations currently in the market.

I would also like to bring to the attention of Members that the Bill was amended in the Legislative Assembly on the motion of the Government. The amendments have the effect of ensuring that an interest that a person holds in a grandfathered corporation cannot be transferred to any one who is not a registered pharmacist. The one exception to this position is an interest that a person holds in a listed corporation that is a grandfathered corporation or that has an interest in a grandfathered corporation. The shares in relevant listed corporations will still be able to be freely traded. The amendments provide for the same situation to apply under the Pharmacy Act 1964. The amendments to the Pharmacy Act 1964 will commence on assent.

Discussion of friendly society pharmacies and the grandfathered corporate pharmacies leads me to Part 11 of the Bill. Part 11 is a set of standard provisions that expressly prohibit employers directing or inciting their employee pharmacists to engage in unsatisfactory professional conduct or professional misconduct. Equivalent provisions are found in the Medical Practice Act 1992, the Dental Practice Act 2001 and the Optometrists Act 2002. While, due to the ownership restrictions in the Bill, these provisions have limited application to pharmacy they are relevant in those restricted circumstances where a friendly society or corporation conducts a pharmacy business subject to the exemptions in sections 26 and 27 of the Bill. The provisions create an offence, with significant monetary penalties. The provisions also allow the Director-General of Health to prohibit a person who has been found guilty of an offence under Part 11 from operating a business that provides pharmacy services.

I wish to emphasise that Part 11 of the Bill does not provide an additional mechanism for a non-pharmacist to obtain a pecuniary interest in a pharmacy business.

Honourable Members will recall that other health professional registration Acts introduced and passed in recent years have included template provisions in respect of:

- the registration of practitioners;
- disciplinary and complaints handling structures, including mechanisms to manage impaired practitioners;
- notification of a range of criminal matters by both courts and registered practitioners; and
- administrative matters.

These standard provisions have been included in the Pharmacy Practice Bill.

First I turn to specific provisions of the Bill that concern the registration and regulation of pharmacists.

To ensure that the welfare of patients is the paramount consideration in administering the Act, clause 3 of the Bill states that the objective of the legislation is to protect the health and safety of the public in relation to the practice of pharmacy including by providing mechanisms to ensure that pharmacists are fit to practise. The Bill will achieve this objective through a number of initiatives.

The first of these initiatives is to provide that the Board may refuse to register a person, or register him or her subject to conditions, where it is not satisfied that he or she is competent to practise.

For the first time it will be an explicit requirement that applicants for registration must be competent to practise. Section 9 of the Bill defines competence to practise pharmacy as the possession of sufficient physical capacity, mental capacity and skill to practise pharmacy as well as the possession of sufficient communication skills, including an adequate command of the English language. As part of the requirement for competence, clause 16 of the Bill provides that the Pharmacy Board is to have the power to conduct an inquiry into a person's competence. If, following an inquiry, the Board is not satisfied as to the person's competence it will be able to grant registration subject to conditions or refuse registration.

The second initiative within the Bill, to ensure that pharmacists maintain their competence, is the introduction of a more robust process for the annual renewal of registration. This process will require each practitioner to submit an annual declaration to the Board when seeking to renew their registration.

Section 31 of the Bill provides that these declarations will include, amongst other things, criminal convictions and findings, the refusal by another jurisdiction to register the pharmacist, the details of any suspension or cancellation of registration or the imposition of conditions in another jurisdiction or by another health registration board in New South Wales, significant physical or mental illness that is likely to affect a pharmacist's ability to practise, and continuing professional education activities. These provisions are standard across health professional registration Acts passed in recent years. However noting the role of pharmacists in regulating the community's access to medications and benefits under the Pharmaceutical Benefits Scheme, the Bill also requires pharmacists to report the details of any conviction or finding for an offence connected with the Pharmaceutical Benefits Scheme.

In addition to pharmacists being required to provide the Board with an annual declaration detailing any criminal findings, sections 32 and 33 of the Bill also provide for the Board to be notified about pharmacists who are the subject of criminal findings.

The third significant initiative is Part 4 of the Bill which introduces a new disciplinary system, similar to the model applying to a number of other health professions. Sections 36 and 37 provide for a two tier definition of misconduct. The adoption of the two tier definition, which includes both unsatisfactory professional conduct and professional misconduct, will the range of complaints to be dealt with in the most appropriate manner.

Specific to the Pharmacy Practice Bill, the definition of unsatisfactory professional conduct in section 37(1) includes matters relating to the excessive or inappropriate supply of precursor drugs. This recognises the privileged position of pharmacists in relation to possession and supply of scheduled medications containing precursor drugs, such as pseudoephedrine, that can be diverted to the illicit drug market. Any pharmacist who engages in this type of conduct and profits from this pernicious trade has breached the public's trust, should be held to account by his or her profession and, where appropriate, removed from the profession's ranks.

The Bill provides for the establishment of a Pharmacist's Tribunal, to consider complaints of professional misconduct. The Tribunal is to be chaired by a legal practitioner with at least seven years experience, and include two pharmacists and a consumer selected by the Board. The Tribunal will hear serious complaints about pharmacists and the Board will, where appropriate, conduct inquiries into complaints that are less serious.

Like a number of other registration Acts, the Bill proposes the establishment of a Pharmacy Care Assessment Committee. The Committee can be used by the Board as an expeditious end expert mechanism to inquire into those complaints about pharmacy services that the Health Care Complaints Commission does not propose to investigate. Those complaints will generally be those at the lower end of the spectrum of seriousness.

The Committee is to investigate complaints and make recommendations to the Board for their resolution. Included as part of the Committee's investigatory powers will be the power to order skills testing. Skills testing will assist the Board in dealing with complaints about professional standards and in ensuring that pharmacists" maintain appropriate standards.

Should the Committee, during its investigations, reach the view that a complaint raises an issue of unsatisfactory professional conduct or professional misconduct that requires referral for a disciplinary inquiry, the Board will be obliged to follow this recommendation. In such cases the Board will either conduct an inquiry into the complaint or, for more serious matters, refer the complaint to the Tribunal for a hearing.

Honourable Members will be aware of the role of the Health Care Complaints Commission in investigating complaints about health service providers and undertaking disciplinary action. I emphasise that under the new disciplinary provisions the role of the Health Care Complaints Commission will continue to play an important role in the investigation and prosecution of complaints.

> As part of the Board's powers to protect the public it will be able to impose conditions on a pharmacist's registration or suspend that registration where it is necessary to do so to protect the life or the physical or mental health of any person. Equivalent emergency provisions exist in other health professional registration Acts.
>
> Part 5 of the Bill proposes a system for the Board to manage impaired pharmacists. Part 5 is modelled on impairment provisions in the Medical Practice Act, which have operated successfully for a number of years. Pharmacists whose ability to practise is impaired by factors such as physical or mental illness, or drug and alcohol abuse, can be managed and assisted before those problems develop to the point where members of the public are placed at risk.
>
> Following the impairment process the Board will be able to place conditions on a pharmacist's registration or suspend that registration where it is satisfied that the pharmacist has agreed. Where the pharmacist does not agree to the recommendations of an impaired registrants panel, the Board will be able to lodge a complaint about the pharmacist to be dealt with by the Tribunal or at a Board inquiry.
>
> Similar to other health professional registration Acts the Bill includes comprehensive appeal mechanisms to ensure that there are appropriate checks and balances in the disciplinary system.
>
> This Bill is aimed at ensuring that the public can continue to expect the highest standards of competence and conduct from the profession. I commend the Bill to the House.

I bring to the attention of honourable members that the bill was amended in the Legislative Assembly on the motion of the Government. The amendments have the effect of ensuring that an interest that a person holds in a grandfathered corporation cannot be transferred to anyone who is not a registered pharmacist. The one exception to this position is an interest that a person holds in a listed corporation that is a grandfathered corporation or that has an interest in a grandfathered corporation. Shares in relevant listed corporations will still be able to be freely traded. The amendments provide for the same situation to apply under the Pharmacy Act 1964. The amendments to the Pharmacy Act 1964 will commence on assent.

The Hon. JENNIFER GARDINER [11.42 a.m.]: The Pharmacy Practice Bill repeals the Pharmacy Act 1964 following a national competition policy review. The legislation is based on a report from a review of pharmacy legislation that was commissioned by the Council of Australian Governments. This reform has been in the parliamentary process for a long time. Other Acts governing health professionals such as doctors, dentists, psychiatrists, optometrists and some other health professionals were amended approximately five years ago. The bill standardises provisions relating to the registration of pharmacists, the making of complaints against them, and disciplinary proceedings. It requires that only registered pharmacists, partnerships of registered pharmacists or corporations that are made up exclusively of registered pharmacists may hold pecuniary interests in pharmacy businesses.

The only exception to that restriction is in prescribed circumstances, such as in a remote community where a registered pharmacist would be in charge of the community's pharmacy. However, an organisation such as a local shire council may have a pecuniary interest, if there is no pharmacist willing or available to invest in the business. The formulation of this bill has taken into account the challenges that sometimes accompany rurality and small populations in remote communities where it might not be feasible for a pharmacy practice to exist.

The bill specifically prohibits a pharmacy business being co-located with a supermarket or a pharmacy that the public may directly access from within a supermarket. The legislation provides exemptions for the five friendly societies that currently own and operate eight pharmacies in this State. They may continue to do so with written approval of the Minister, who must be satisfied that the net profits from the pharmacy are applied solely to benefits for members of the society. The friendly society must not have a pecuniary interest in more than six pharmacy businesses. As the Minister for Health said, the bill passed the second reading stage in the other place in May this year. In recent days the Government moved amendments to its own legislation.

The Government's amendments will tighten up restrictions relating to the sale and ownership of the grandfathered pharmacy businesses following the realisation that the bill in its original form may have had loopholes that would allow a repeat of what happened in March this year with the purchase of one grandfathered pharmacy business by Coles Myer. The amendments clarify the definition of pecuniary interest as well as the exemptions and restrictions for a number of pharmacy businesses in which pharmacists may have a pecuniary interest. Another amendment specifies that a person who is granted supervised registration, which would be a person who has not finally qualified as a pharmacist, is not able to be in charge of the pharmacy business.

The Opposition supports the legislation because, firstly, it is based on national competition policy principles. Secondly, it keeps pharmacy in the hands of pharmacists, which reflects a longstanding commitment on the part of The Nationals and the Liberal Party at both State and Federal levels of government, and it

maintains the focus on pharmacies as important players in the delivery of health care services. The New South Wales Coalition believes it is necessary to ensure the ongoing proper, safe and professional handling and dispensing of medicines. We have always strongly supported the model of community-based pharmacies that are generally owned by pharmacists who are well qualified and well connected with their local communities. They provide a valuable service as primary health care providers. This position is in keeping with the Coalition's strong view that all health services should have strong connections to their local communities.

The bill provides exemptions for eight corporations that have been termed grandfathered pharmacy businesses. They are businesses that have owned pharmacy businesses prior to 5 October 1990, and in some cases ownership dates back to 1940. One of those businesses, Soul Pattinson, is a publicly listed company. The others include Pharmacy Direct, which is owned by Sydney Drug Stores Pty Ltd, a wholly owned subsidiary of Coles Myer Pty Ltd; Soul Pattinson of 160 Pitt Street, Sydney, which is owned by Washington H. Soul Pattinson and Co. Ltd, a listed public company; North Rocks Pharmacy, which is owned by Pharmeasy Pty Ltd, a wholly owned subsidiary of Advanced Healthcare Group Ltd; and Friendly Societies Pharmacy Ltd of Grafton, which is owned by Friendly Societies Pharmacy Ltd. There are four others that are owned by pharmacists.

The amendments referred to by the Minister centre around the March purchase by Coles Myer Ltd of one of the grandfathered corporate pharmacies and proprietor of Pharmacy Direct, Sydney Drug Stores Pty Ltd. There has been quite a lot of debate about whether the purchase constitutes a prima facie breach by Coles Myer of section 25 (1) of the Pharmacy Act 1964. The transaction has caused considerable concern that the community pharmacy model perpetuated in this bill may be compromised in some way, and The Nationals and the Liberals certainly support that concern. The amendments have been devised to clarify the definition of pecuniary interest, and the exemptions and restrictions on the number of pharmacy businesses in which pharmacists may have a pecuniary interest. As I mentioned, a second amendment specifies that a person granted supervised registration—that is, a person not finally qualified as a pharmacist—is not able to be in charge of a business.

The bill provides the New South Wales Pharmacy Board with powers to ensure that pharmacists remain fit to practise and are professionally competent. The board can suspend a pharmacist's registration when that action is required to protect the life or health of any person. The Government has given an assurance that the board's power to monitor the continuing education activities provides the mechanism to address concerns that some pharmacists are not taking appropriate steps to maintain their professional competence. That provision is consistent with Acts that govern the health professions in New South Wales, including the Medical Practice Act.

The New South Wales public has been well served by well-educated and community-minded pharmacy professionals and their peak bodies, which have been involved in controlling the inappropriate use of drugs, the safekeeping of medications, and advising and educating their clients about the use of medications. My side of politics has a long history of support for pharmacy. For example, in June 1989 the then New South Wales Liberal-Nationals Government provided a grant of $1.3 million to the Pharmacy Practice Foundation of the University of Sydney to establish the first Chair of Pharmacy Practice in Australia. That initiative has had a far-reaching and ongoing beneficial impact on community practice, and the Coalition looks forward in this legislative regime to continuing to work with individual pharmacists through the Pharmacy Guild, the Pharmaceutical Society and other industry associations to identify further opportunities to enhance the role of community pharmacy.

In recent years community-based pharmacy has entered new fields: more and more pharmacists have become quality accredited and many have become involved in new professional health services. For example, pharmacists play a very important role, in partnership with general practitioners, in helping patients to manage the safe use of medications. We recognise the great potential in involving the 1,700 pharmacies across the State in the delivery of better health outcomes and in involving them as one-stop-shop services for customers. This enables them to provide advice about activities such as health promotion and ill-health prevention campaigns, the location and availability of hospital services, the location and opening hours of general practices, medial centres and health support agencies, and the availability of other community-based services such as infant home visits, youth health centres and various screening services.

As my colleague the shadow Minister for Health, Jillian Skinner, said in the other place, discussions with the Pharmacy Guild have led us to believe that there are opportunities for community pharmacists to be involved in a wider range of projects, such as falls management, enrolment centres for electronic health records, and assisting community-based mental health teams to manage patient compliance with their medication. That

role would be extraordinarily important for many people. The Nationals and Liberals will continue to work with pharmacists and their peak organisations to ensure they are recognised for their important role as primary care providers for people in their communities, both generally and locally.

Ms SYLVIA HALE [11.55 a.m.]: The Pharmacy Practice Bill is welcomed by everyone in the profession, if for no other reason than that it is the first review of the key legislation governing pharmacy in New South Wales in 42 years. Given the changes in health care over that time, the review is well overdue. Nevertheless, the Greens believe that the bill should be presented as two separate bills as it deals with two very different and specific areas of pharmacy. First, the bill deals with issues surrounding the ownership and operation of pharmacies, that is, chemist shops, and, secondly, it deals with the registration of pharmacists, that is, the actual practitioners of pharmacy.

The issues should be presented in two separate bills, because the commercial and ownership issues relating to the operation of chemist shops are very different from the legal and health issues relating to professional accreditation. One is a health issue and the other is almost a fair trading issue. In presenting the two issues in one bill the Government is effectively clouding the issues. I add that the bill's emphasis appears to be more on commercial chemist shop considerations than on the professional accreditation issues, and that misplaced emphasis is somewhat alarming. I will not refer in detail to part 3 of the bill and the provisions relating to pharmacy ownership, as the Greens position on that issue is well known.

The Greens are opposed to attempts by supermarket chains to enter the pharmacy market. Chemist shops play a vital role in the community, especially in small country towns. The Greens are opposed to allowing supermarkets to cherry pick the most profitable areas of the pharmacy market and thereby render small chemist shops unviable. I will focus on the second part of the bill, which relates to professional accreditation of pharmacists. With this bill the Government has adopted a template approach. The provisions relating to accreditation, regulation and disciplinary procedures following complaints about a pharmacist are virtually identical to accreditation and complaints provisions in the Podiatrists Act 2003, the Psychologists Act 1989, the Osteopaths Act 2001, the Optometrists Act 2002, the Dental Practice Act 2001 and the Chiropractors Act 2001.

The problem with this one-size-fits-all approach is that pharmacists dispense life-threatening drugs in a way that podiatrists, osteopaths and chiropractors do not. Those professions certainly play a very important role in the overall health care arena, but they do not dispense drugs as pharmacists do. I note that one of the fastest-growing areas of pharmacy is medication review, whereby a pharmacist reviews all medications used by a patient and makes recommendations to achieve the best possible outcome.

Clearly it is perfectly reasonable to regulate and control a profession charged with dispensing life-saving drugs. In that way pharmacy differs from the activities of other health care professions, and that should be reflected in the controls and regulations governing the profession. That point has been well made by the Pharmaceutical Society of Australia [PSA], the professional pharmacy body that has more than 11,000 members Australia-wide. One of the Pharmaceutical Society's key concerns with the bill is the lack of ongoing professional training for pharmacists. Given how quickly medicines and health care practices change, the society argued that it is essential that pharmacists update their skills and knowledge regularly. Many members have received correspondence from the Pharmaceutical Society, and it is useful to quote from one of those letters. It reads:

> We are exceptionally disappointed that a key recommendation of the PSA NSW has not been included. Specifically, the PSA strongly believes in the need for continuing education … [on the] part of pharmacists to ensure competence and the provision of high-quality service to consumers and public safety.

Despite the requirement for ongoing education in Tasmania, South Australia and Victoria, the New South Wales Government does not share the prevailing view in those States about the need for continuing education. We will soon be debating fair trading legislation which is about to come before this House and which is aimed at bringing the provisions of the Fair Trading Act into line with legislation in force in other States. If it is appropriate to do that in the case of fair trading legislation, surely it is equally appropriate to do it in the case of ongoing education and accreditation of pharmacists between States.

The Pharmaceutical Society argues that ongoing education is relatively easy to implement and the society has proposed a simple points-based system. In Victoria, pharmacists simply provide details of any courses undertaken at the time of their annual registration renewal. The system has been in place since 1990 and has been operating well. A similar, though less stringent, system is in operation in South Australia and Tasmania. The Pharmaceutical Society is asking for a regime that is consistent with procedures in other States

and virtually identical to the system in Victoria. That would ensure that pharmacists transferring between the two States have equal and transferable accreditation.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

STATE FINAL DEMAND

The Hon. MICHAEL GALLACHER: I direct my question without notice to the Treasurer. What is his new forecast for State final demand in New South Wales for the year 2006-07, given that New South Wales State final demand grew by only 1 per cent in the year ended June 2006, while the revised estimate for 2005-06 in this year's budget papers was more than double that, at 2.5 per cent?

The Hon. MICHAEL COSTA: The honourable member has done some work today, which is impressive. State final demand figures came out today and are in line with our forecast, so we do not expect to revise our forecast at this stage.

The Hon. MICHAEL GALLACHER: I ask a supplementary question. Based on the Minister's answer and his own projections in this year's budget papers, which consequently push the deficit higher than $700 million, will the Minister tell the House how much over $1 billion the deficit for the year 2006-07 will end up?

The Hon. MICHAEL COSTA: Once again the Opposition displays its ignorance of how our final budget result will be determined. Clearly, State final demand is one factor that impacts on this State's economic performance but there are other factors, that is, our expenditure and the revenue—

The Hon. John Ryan: New taxes.

The Hon. MICHAEL COSTA: Opposition members will need a lot of new taxes to pay for their $20 billion worth of unfunded promises. Not only that, I heard yesterday that the Opposition proposes to do it all on day one. I do not know how it will fund $20 billion worth of promises on day one. Opposition members are a joke. Everybody knows that they are a joke. That is why they will not be elected to govern. In relation to our forecast, we are confident that we will meet our forecast.

GREEN SLIP SCHEME

The Hon. HENRY TSANG: My question without notice is directed to the Minister for Commerce. Will the Minister inform the House of the additional benefits becoming available under the New South Wales green slip scheme?

The Hon. John Ryan: He might even tell us how much the new advertising campaign cost.

The Hon. JOHN DELLA BOSCA: I thank the honourable member for giving me an opportunity to respond to these issues. Green slip renewals being mailed this month to drivers and riders around New South Wales include an historic change. For the first time in the history of New South Wales we will have a green slip scheme that provides no-fault coverage for children injured in motor vehicle accidents. From 1 October 2006 the premium will cover children for treatment expenses, rehabilitation and care needs for their recovery.

This is the first time children will be covered regardless of fault. Previously a child had to prove that he or she was injured through the fault of the driver. If the driver was not at fault, parents had to pay for all medical treatment and rehabilitation and, regrettably, sometimes a lifetime of care. Additionally, it allowed insurers to threaten to deny liability. The reality is that young children move quickly, unpredictably and often without thought for potential risks, often giving drivers little or no chance of avoiding a tragic collision.

A claims analysis undertaken by the Motor Accidents Authority shows that child pedestrians and cyclists injured in a collision with a motor vehicle are more likely to have their claim rejected. The new coverage for children is the first stage in a major improvement of benefits culminating in the commencement of

the new Lifetime Care and Support Scheme in 2007. In a year's time benefits will be further extended to anyone catastrophically injured in a motor vehicle accident.

Just as the community wants children covered for their serious injuries, we recognise that someone who is catastrophically injured in a motor vehicle should be cared for with dignity, regardless of fault. A small increase in the price of green slips will cover both new benefits. The cost of green slips was expected to increase by an average of $20 per year from 1 October 2006 to cover these improvements. However, in the competitive market that we have designed as a result of our reforms, two companies have elected not to increase the price of green slips for some categories of drivers. The average increase is on track to be well below the forecast $20.

These new benefits have been made possible by the strong and stable performance of the New South Wales green slip scheme. Since 1999 when the green slip scheme was reformed the average premium for a Sydney motorcar has dropped from $441 to just $314, a 29 per cent reduction. In today's dollar terms that is a saving of $229. Green slip premiums have never been more affordable and a greater proportion of the premium is now going to medical care, treatment, rehabilitation and research. The average payment for people seriously injured in a motor vehicle accident has increased by 74 per cent.

The ongoing reduction in the price of green slips has enabled us to begin the historic benefit expansion to aid children, people catastrophically injured, and their families. I again remind anyone looking for a green slip to shop around for the best green slip price. There can be substantial differences in the price of green slips among the seven insurers, so it pays to shop around on all occasions. Madam Acting-President, I recognise that interjections are disorderly on all occasions, but earlier the Hon. John Ryan referred by way of interjection to the advertising cost of the green slip scheme. The campaign involving television, radio, press and online advertising cost approximately $1.7 million.

PACIFIC HIGHWAY UPGRADE

The Hon. DUNCAN GAY: I direct my question without notice to the Minister for Roads. Does the Minister recall meeting on 30 August 2006 with representatives from eight local chambers of commerce, regional chambers, and Australian Business Limited regarding his responsibilities to upgrade the Pacific Highway? I ask the Minister whether he agrees with delegates' comments to a newspaper in the following terms:

> He was very nice when the cameras were in the room, but when they left it was almost as if he threw a switch and he became very coy and very arrogant.
>
> Mr Roozendaal was explosive ... and ... verbally abusive.
>
> A delegate actually left the room after being insulted by Mr Roozendaal.

Will the Minister apologise to them immediately for his rude, arrogant and childish behaviour?

The Hon. ERIC ROOZENDAAL: I remember that meeting well. Many issues were canvassed at that meeting. There was a moment when people reacted because we were discussing the funding of the Pacific Highway and somebody asked, "Why is it that the Federal Government found $800 million in its last budget for the Hume Highway but it could only find $150 million for the Pacific Highway? Incidentally, that amount had to be matched by the New South Wales Government. That question was posed in the meeting. After a moment of reflection and careful consideration—

The Hon. Catherine Cusack: Tell the truth, Eric.

The ACTING-PRESIDENT: Order!

The Hon. ERIC ROOZENDAAL: I am going to. After a moment of reflection—I had to be honest with people at that meeting—I said that there are a couple of reasons why the Federal Government would not give additional funding to the Pacific Highway.

The Hon. Duncan Gay: Because it is a State road.

The ACTING-PRESIDENT: Order!

The Hon. ERIC ROOZENDAAL: Opposition members asked a question but they do not want to hear the answer because it will reflect on their complete inability to lobby their Federal colleagues to get funding for the Pacific Highway. Did Andrew Stoner turn up to the recent estimates committee hearing? No, he was not there.

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

The Hon. ERIC ROOZENDAAL: Andrew Stoner was not there because he does not care about roads. He was too busy sauntering around somewhere else. The first reason why we do not have additional Federal funding for the Pacific Highway is the incompetence of the State Opposition in lobbying its Federal colleagues. Jim Lloyd and Warren Truss are openly contemptuous of the New South Wales Opposition and its inability to lobby at any level—which, of course, is because of the extremist takeover of the Liberal Party led by David Clarke. The second major reason that I posed to delegates as to why Federal funding has not been allocated to the Pacific Highway is the complete impotence of Federal members representing electorates on the North Coast. Some delegates could not bear to hear the truth about how their Federal members are impotent.

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

The Hon. ERIC ROOZENDAAL: They are incapable of lobbying the Federal Treasurer for money.

The Hon. Duncan Gay: Point of order: Madam Acting-President, I ask you to direct the Minister for Roads to answer the question. The question related to his improper behaviour towards delegates who attended a meeting. It had nothing to do with the Federal Government.

The ACTING-PRESIDENT: Order! The Minister for Roads was explaining the reasons why the events at that particular meeting occurred. Therefore, his answer is in order.

The Hon. ERIC ROOZENDAAL: Apart from the impotence of the State Opposition and Federal Coalition members, I rejected the suggestion made at the meeting that we should override community consultation. It is important for the Government and the Roads and Traffic Authority to continue community consultation to ensure that we get proper outcomes for all routes on the Pacific Highway.

CIRCUMCISION

The Hon. DAVID OLDFIELD: My question is directed to the Minister for Health. In previous answers to my questions about circumcision, the Minister suggested that the position of NSW Health would not alter without the advice of the Royal Australasian College of Physicians. Is the Minister aware that the college's policy on circumcision is under review? Given the ongoing undeniable evidence that circumcision is an important factor in preventing sexually transmitted diseases, including HIV, will the Minister consider having NSW Health become more proactive on this matter?

The Hon. JOHN HATZISTERGOS: Yes, I am aware that the Royal Australasian College of Physicians has its policy under review. As I indicated, we will consider that advice in the context in which it is provided when the review is completed. I am advised that a number of recent studies have shown the potential protective effect of male circumcision in relation to HIV. A number of papers have been presented, particularly at the recent AIDS conference in Toronto—which I think the Hon. David Oldfield has referred to previously—and they have provided further support for considering mass adult circumcision programs in sub-Saharan Africa as a means of lowering HIV infection rates. The studies were conducted in developing countries among populations with high HIV prevalence, poorer overall health and lower rates of condom use with casual partners. The relevance of these findings to the Australian context cannot yet be assessed.

I am advised that the evidence to date would not support this approach being adopted in Australia, where condoms are accessible and affordable to the vast majority of the population, the dominant mode of transmission of HIV is not heterosexual intercourse and the prevalence is much lower than in countries where circumcision has been studied. Given the above, circumcision is not currently proposed as a means of preventing HIV infection in New South Wales at either an individual or population level. The State's ongoing low and stable rate of HIV infections supports the effectiveness of policies and approaches to HIV to date. Professor David Cooper of the National Centre in HIV Epidemiology and Clinical Research has stated that there is a need for health agencies in developing countries to examine the role of circumcision and has urged the

Australian Government to consider the implications of this research locally and in neighbouring countries. Professor Cooper has also stated that Australia might benefit from infant circumcision only and that the issue should be considered. NSW Health bases its policy on the routine circumcision of normal infant males on the paediatric policy statement of the Royal Australasian College of Physicians. This policy emphasises in its first paragraph that:

> After extensive review of the literature the RACP reaffirms that there is no medical indication for routine neonatal circumcision.

I am advised that the literature review for the current policy statement included an extensive array of literature published as recently as 2003 and that the review specifically examined the role of circumcision in preventing sexually transmitted infections, including HIV. The college reviews all its policies every two years and is currently conducting such a review of its paediatric policy statement on circumcision. In the course of the review the college committee will review the evidence, including literature published since the beginning of 2003, and make determinations as to the reliability of certain evidence and how it should influence policy and practice. Once endorsed, the college policy will be forwarded to the Maternal and Perinatal Health Priority Taskforce for its consideration. If approved, it will then become NSW Health policy.

Professor Cooper has called on the Australian Government to consider the research on circumcision and HIV prevention and its implications locally and in neighbouring countries such as Papua New Guinea, which has a highly unstable epidemic. The New South Wales Government supports considered measures to assess the relevance of the findings to our domestic and regional context, and will continue to participate fully in any appropriate review process. It should be remembered that the best prevention for the spread of HIV remains practising safe sex.

BANANA IMPORTATION AND BIOSECURITY

The Hon. TONY CATANZARITI: My question is addressed to the Minister for Primary Industries. Have 11 tonnes of frozen Vietnamese bananas slipped under the quarantine radar and, if so, does this have implications for New South Wales banana growers?

The Hon. IAN MACDONALD: This is yet another question involving rural areas that is of great consequence. In this instance, the biosecurity of New South Wales banana producers is being put at risk by The Nationals' mates in Canberra. Let me make it clear: Biosecurity is our primary industries' greatest asset.

[*Interruption*]

Test, Melinda; test, test. Tough biosecurity and quarantine measures help to ensure freedom from disease and pests and allow our farmers to enjoy lucrative international trade opportunities. The latest threat from potentially weakened quarantine restrictions applies to the State's banana industry. Like the Australian Banana Growers Council, I was alarmed to learn about the importation of 11 tonnes of frozen, peeled bananas from Vietnam. This comes at a time when the New South Wales banana industry is producing 43,000 tonnes of bananas per year. Apparently this is not enough for the Federal Coalition, which has dropped the ball and put at risk Australia's $400-million banana industry. In doing so, it has also threatened the future of towns in rural and regional New South Wales that rely on that industry.

It appears that the greatest threat to our robust quarantine system is the Federal Government and Biosecurity Australia. It is no secret that, if introduced into Australia, exotic diseases have the ability to devastate our primary industries. For example, fire blight alone is endemic in more than 40 countries overseas, including New Zealand, where it caused an estimated $10 million in losses in the Hawkes Bay region in 1998. It is estimated that, if introduced into Australia, fire blight has the potential to cut pear production by 50 per cent and apple production by 20 per cent, possibly costing New South Wales $141 million in lost production each year. The Australian Banana Growers Council said that it was taken by surprise by the large volume of frozen bananas brought into Australia from Vietnam. Its concerns are justified. The New South Wales Government has always supported the State's agricultural industries when it comes to their concerns—

[*Interruption*]

So the Hon. Rick Colless does not support Australian banana growers. Members of The Nationals should be supporting me in saying that we need to improve the Australian Quarantine and Inspection Service. We need to keep Costello and the economic rationalists under control.

The Hon. Duncan Gay: They are not fresh bananas, you idiot!

The Hon. IAN MACDONALD: Members of The Nationals are not supporting the Australian Banana Growers Council.

The Hon. Rick Colless: You're a liar!

The ACTING-PRESIDENT: Order! I call the Hon. Rick Colless to order for the first time.

The Hon. IAN MACDONALD: This is what the Chairman of the Australian Banana Growers Council Imports Committee, Len Collins, said about the Vietnamese bananas:

> Bananas are susceptible to a range of diseases which are managed by strict quarantine controls.
>
> The Australian Banana Growers Council is disappointed it was not consulted or informed by Australian Quarantine Inspection Service officials about the Vietnamese import arrangement before this product arrived on our shores.
>
> At this stage, ABGC understands that the bananas have been washed, peeled, steamed to 95 degrees C, then frozen to –20 degrees.

Mr Collins said you are attacking the Australian Banana Growers Council.

The Hon. Rick Colless: No, I'm not.

The Hon. IAN MACDONALD: This is The Nationals member! What depths have The Nationals fallen to?

The Hon. Rick Colless: You are wrong.

[*Interruption*]

The Hon. IAN MACDONALD: Mr Collins from the grower industry body said:

> We would like to see the science that has been relied on in developing these protocols—

The Hon. Duncan Gay: Point of order: The Minister failed to tell the House that this came under an agreement that was signed by the Labor Party.

The ACTING-PRESIDENT: Order! That is not a point of order. The Deputy Leader of the Opposition will resume his seat.

The Hon. Dr Arthur Chesterfield-Evans: Point of order: The Minister is frequently impossible to hear on the public announcement system because he turns his back on the microphone and hassles people. It is often impossible to hear question time upstairs because people do not use the microphone. Will you ask the Minister to speak into the microphone please?

The ACTING-PRESIDENT: Order! I call the Hon. Catherine Cusack to order for the second time. I call the Treasurer to order. In responding to the point of order of the Hon. Dr Arthur Chesterfield-Evans, I remind members that they should address their comments to the Chair, use the microphone when given the call and not mumble. It would help greatly also if members ceased interjecting.

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

The Hon. Duncan Gay: Supplementary questions are not asked on dorothy dixers.

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition interjected. Mr Collins said:

> We would like to see the science that has been relied on in developing these protocols so we can be satisfied that they are sufficient to manage the risk and that the protocols are being adhered to.

It is clear that Mr Collins, unlike The Nationals, shares the concerns of the State Government on this matter even though frozen bananas are a low-value item, and the treated product poses little pest risk compared to fresh

bananas. But the industry deserves answers from the Australian Quarantine Inspection Service about what disease and pest assessments were undertaken on these bananas. Were the bananas treated? What were the protocols? Our farmers deserve assurance that the security of our farming industries will be protected against exotic diseases and there will be no softening on bio-security policy. This is the industry talking, not me. They deserve an Opposition that will take up the fight to their Canberra masters.

The State Government has been no slouch revealing the flaws in the Commonwealth's import risk assessment process and has been proactive working with industry to have the problems addressed. In 2004 the State Government convened an emergency summit with key agricultural producers to discuss the latest threat from weakened quarantine restrictions. The group included representatives from: Apple and Pear Australia Limited, Australian Pork Limited, Australian Chicken Meat Federation Inc., Australian Egg Corporation Limited, Riverina Citrus, Bananas New South Wales and the Department of Primary Industries. The group was appalled by the Federal Coalition plans to boost imports of uncooked chicken meat, egg products, citrus, limes and table grapes. As a result, the group backed the calls for an overhaul of the existing import risk assessment process. [*Time expired.*]

LANE COVE TUNNEL

Ms LEE RHIANNON: I direct my question to the Minister for Roads. How much money does the Government have to pay the Lane Cove Tunnel consortium for breaching the terms of the Lane Cove Tunnel contract by delaying the above-ground road changes? If the Minister does not know how much is the compensation package, when will he know? Will the Minister commit to publicly disclosing the amount of the package in the interests of transparency and government accountability? If the compensation package is confidential, why is that so, given that public money is being used to compensate for poor government urban planning?

The Hon. ERIC ROOZENDAAL: I clearly dealt with the substantial aspect of this question during estimates. This is about getting the project right. The Lane Cove Tunnel and expanded Gore Hill freeway have to be properly integrated into the surrounding road network. We have learned lessons from the Cross City Tunnel. We do not just open a $1.1 billion piece of road infrastructure and the very next day start all the road surface changes. Certainly the parliamentary inquiry chaired by Reverend the Hon. Fred Nile recognised that. The construction period has been difficult for motorists. A lot of roadwork has been going on for a long time. This is about making sure that roadwork after the tunnel opens is as smooth as possible for motorists.

It makes sense to wait until the Lane Cove Tunnel and expanded Gore Hill freeway are actually working. There will be teething problems. It is a huge project. We need to work out many of the problems before we start the road surface changes. It is about making it easier for motorists, the local community and public transport users. We need to create a smooth transition—that was one of the lessons of the Cross City Tunnel. We need to work with motorists on road changes. Of course, the Liberal Party was front and centre in supporting road changes associated with the Lane Cove Tunnel, so much so that it threatened to oppose the tunnel's construction unless surface road changes were approved on Epping Road.

In 2002 Lane Cove Council supported the construction of the Lane Cove Tunnel on the condition that Epping Road was narrowed. The mayor of Lane Cove and the leader of the charge on this issue was none other than the honourable member for Lane Cove, Anthony Roberts. He ruled at the time this was a matter of urgency. He supported the changes to traffic conditions on Epping Road. There are clear signs of disunity in the Liberal Party, which has no position other than the pursuit of rank and political opportunism, even at the expense of the honourable member for Lane Cove. The Government's relationship with Connector Motorways, the operator of the Lane Cove Tunnel and builder of the expanded Gore Hill freeway and the Falcon Street ramps, is excellent. The Government is working closely with them.

The Government set up the transition group to work through the issues of transitioning the Lane Cove Tunnel and expanded Gore Hill freeway back into the road network. As part of this process, negotiations are ongoing to ensure that when it opens the inconvenience to motorists and the community is minimised. As I have said, as soon as those negotiations are concluded I will be happy to explain the outcomes of that process to the public. But this is about getting the project right. The lessons from Cross City Tunnel are that it is sensible to phase in surface road changes and give motorists the opportunity to get used to using the new roads to the tunnel, the expanded Gore Hill freeway and to the new Falcon Street ramps. That is why the Government set up

the Lane Cove Tunnel integration group and it is working with the company, local council and other agencies to make the project transition into the existing road network as smooth as possible.

For the interest of the House, the group has representatives of the Premier's Department, Infrastructure Implementation Group, the Roads and Traffic Authority, the Sydney Transport Authority and Connector Motorways. The group consults with local councils to ensure that we are getting the project right.

Ms LEE RHIANNON: I ask a supplementary question. Minister, my question requires a "yes" or "no" answer. Will the Minister commit to publicly disclosing the amount that will be paid in compensation to the Lane Cove Tunnel consortium?

The Hon. ERIC ROOZENDAAL: What a lazy question! If Ms Lee Rhiannon had bothered to listen at the estimates hearing, Ms Sylvia Hale had asked me a similar question and, of course, it is already in *Hansard* that once the negotiations—

The ACTING-PRESIDENT: Order! I call the Hon. Dr Arthur Chesterfield-Evans to order. I call Ms Sylvia Hale to order. Members should not engage in such disorderly behaviour.

The Hon. ERIC ROOZENDAAL: It seems to me that as we get close to the election some crossbenchers are getting very noisy in a vain attempt to publicise themselves. As I stated at a recent estimates hearing, of course once negotiations are concluded by the transition group it will all be explained to the public, and any compensation, if required to be paid, will be declared. This is an open and transparent process to ensure that we maximise benefits to the community and minimise inconvenience to motorists with the opening of this $1.1 billion piece of infrastructure, which will complete the orbital network and substantially improve the lifestyle of communities on Epping Road and those using the Lane Cove Tunnel and Gore Hill Freeway.

PUBLIC-PRIVATE INFRASTRUCTURE PROJECTS

The Hon. GREG PEARCE: My question is directed to the Minister for Roads. Minister, what was the basis of your dismissal of the accusation of Graham Mulligan, the CEO of CrossCity Motorway, that the Iemma Labor Government abandoned the Cross City Tunnel project and is working against CrossCity Motorway? Are you aware that Mr Mulligan has warned that the Government may undermine the Lane Cove Tunnel partners, and that the project will be the next most controversial public-private partnership project, second only to the Cross City Tunnel? What action will the Minister take to repair the damage caused by this Labor Government to private investment interest in government infrastructure projects?

The Hon. ERIC ROOZENDAAL: I am very impressed by the honourable member's attempt to butch up a bit for a change! I appreciate the question. The Cross City Tunnel is a very important issue, and I am interested to note that the chief executive officer of CrossCity Motorway has yet again made some public comments. In the past he has attacked the member for Vaucluse for his crazy strategy to deal with the Cross City Tunnel; he has had a lot to say about the complete incompetence of the member for Vaucluse on that issue.

The importance of the Cross City Tunnel to Sydney is obvious. Already, it takes around 30,000 vehicles, give or take a few, off surface roads and from the city and through the tunnel. The New South Wales Government is continuing with its road reversals around the CBD to improve traffic flows through the city and give access to the harbour crossings. I am advised that the completed works include Bourke Street, which has reopened to traffic at William Street; Druitt Street is now open to westbound general traffic between Kent and Clarence streets, now allowing a direct access through the city towards Anzac Bridge; and an additional right-turn lane at Queen's Cross, allowing motorists to turn from Darlinghurst Road northbound into King's Cross Road eastbound.

Work under way includes the removal of the Sea Gull Island intersection of Sir John Young Crescent and Cowper Wharf Road. The next stage is to reintroduce the Palmer Street traffic signals at the intersection of Sir John Young Crescent to assist traffic flows. Work is under way on Palmer Street to restore two northbound lanes between Sir John Young Crescent and Cathedral Street. The next stages are to reinstall the second right-turn from the Cahill Expressway off ramp to Cowper Wharf Road and to provide an additional general traffic lane eastbound along William Street and east to Palmer Street.

I really think Mr Mulligan should get on with running his company and promoting the Cross City Tunnel and encouraging more people to use it, rather than engaging in his ongoing commentary—although I must agree with his comments about the member for Vaucluse and his strategy to rip up the Cross City Tunnel contract. This strategy has been condemned around the world as, to borrow the expression used recently by the Leader of the Opposition, an economic idiot's strategy to deal with the Cross City Tunnel. The Government, on the other hand, is working through the contract.

As honourable members may or may not be aware, there are a number of dispute mechanisms envisaged in the contract to manage any disputes that may emerge, and they are being worked through at the moment. There are mediation and arbitration clauses to be dealt with. The Government is committed to working through those issues with the Cross City Tunnel operators to get a resolution. But it is not about bailing out the Cross City Tunnel operators. We are about getting a better deal for the community and for motorists to be able to get in and around the CBD as they choose.

OBESITY

The Hon. GREG DONNELLY: My question is addressed to the Minister for Health. What is the latest information on the New South Wales Government's fight against obesity?

The Hon. JOHN HATZISTERGOS: This is an important question. Honourable members would be aware that in September 2002 the Government hosted the Childhood Obesity Summit and in October 2003 the Government released the strategy "Prevention of Obesity in Children and Young People: New South Wales Government Action Plan 2003-2007", which contains 34 initiatives for schools, child care, communities and important research. There are a number of issues that we have put on the national agenda through the Australian Health Ministers Conference. At that conference meeting on 27 July 2006 State and Territory Ministers agreed to establish a working party to examine relevant regulatory codes in conjunction with industry with a view to reviewing marketing and advertising practices. But more needs to be done, particularly to empower individuals to make sensible food choices.

I understand Federal Minister Tony Abbott has called for packaged food to be labelled, not only indicating calories or kilojoules but also the percentage of daily food needs it represents. Minister Abbott's proposal misses the mark. People do not need complicated mathematical formulae. They need real-life, plain-English examples that they can relate to. The Federal Parliamentary Secretary for Health, Christopher Pyne, belatedly entered the debate yesterday issuing a press release that stated:

> There aren't many people who can't decide between the nutritional value of an apple or a chocolate biscuit.

The facts do not support the simplistic analysis of Mr Pyne. The fact is that almost a quarter of children are considered to be overweight or obese, and approximately 67 per cent of men and 52 per cent of women aged 25 years and over are considered overweight or obese. And any parent knows that it is not as simple as choosing between a chocolate biscuit and an apple. There are myriad food choices, many claiming to be healthy without justification. If you have ever stood in a supermarket and tried to compare the nutritional information panels—comparing sugar, comparing fat, comparing salt—you know there needs to be an easier way. And children who are often consumers themselves are entirely incapable of making sense of much of this information.

In order to make healthy choices we need to know not just what is in food, but also the impact that its ingredients have on our health. It is for this reason that I have asked Food Standards Australia and New Zealand to introduce a new system of food labelling that ends the confusing and cryptic information on packaging. Mandatory nutrition labelling has been in force in Australia since 2002 and all manufactured foods must carry an information panel. While some in the Federal Coalition may not find it a problem, to most of us these labels are difficult—if not impossible—to decipher. The different terms, chemicals and symbols mean we often do not know what the food contains and therefore we cannot make an informed decision on how healthy it might be. Labels need to be easier to understand in relation to how healthy a product might be.

One idea that is currently being explored in Sweden is to represent the energy density of the food or drink in terms of the amount of activity required to expend the energy contained in a typical serve. A chocolate bar, for example, could be labelled with a message that reads "the energy contents of this product is equivalent to one hour of brisk walking for an adult and 2 hours for a child". Another option, which is being used in the

United Kingdom, is a "traffic light" system of green, amber and red codes for foods, so that consumers can see at a glance foods that are high in fat, high in sugar and high in salt. The United Kingdom system of traffic lights means consumers can see whether the food they are looking at has high, medium or low amounts of each of these nutrients per 100 grams of the food. Major supermarket retailers in the United Kingdom are using this system, and it is proving to be successful, with consumers choosing a higher proportion of green-labelled foods over the red-labelled foods. Improved labelling offers significant benefits to individuals and communities, and our health system, and accordingly I look forward to progressing this issue.

ABORTED AND STILLBORN CHILDREN MEMORIAL GRAVES AND POST-MORTEM ORGAN RETENTION RECOMMENDATIONS

The Hon. Dr PETER WONG: My question without notice is directed to the Minister for Health. What has the Department of Health done to implement the recommendations of the advisory committee on post mortem practices for memorials to those who have had their body parts illegally stolen by government departments? What has the Government done to appropriately recognise the mass graves of aborted and stillborn children?

The Hon. JOHN HATZISTERGOS: I am not aware of the mass graves of aborted and stillborn children. I am not familiar with what the honourable member is referring to. I will take the question on notice.

DEPARTMENT OF HOUSING FAIRFIELD OFFICE LEASE

The Hon. CHARLIE LYNN: My question without notice is directed to the Minister for Commerce. Did the Minister, his representative or any member of his personal and departmental staff have any meetings, phone calls, or other communication with any staff member, business associate or representative of Joe Tripodi on leasing accommodation for the Department of Housing?

The Hon. JOHN DELLA BOSCA: I dealt with this issue at some length yesterday. As I said yesterday in one of the answers I gave to questions along a similar line, I have not at any stage had any discussions with my friend and colleague Joe Tripodi about the matters referred to in the honourable member's question. I have previously answered Opposition questions about this matter. The Department of Housing sought assistance from the Department of Commerce in leasing office accommodation at Fairfield. As I indicated to the House previously, this occurred at officer level in the usual way. As I indicated previously, at no time did it involve me or my office.

HEAVY VEHICLE SAFETY ENFORCEMENT

The Hon. PENNY SHARPE: My question without notice is addressed to the Minister for Roads. Will the Minister provide the House with the latest information on heavy vehicle safety enforcement on the F3 and other State roads?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for her ongoing interest in this matter. As the House would be aware, the RTA already operates a heavy vehicle checking station for northbound traffic on the F3 at Mount White. I am advised that this checking station—

The Hon. Robyn Parker: How often is that open?

The Hon. ERIC ROOZENDAAL: I will get to that. The Hon. Robyn Parker should let me answer the question before making inane comments. I am advised that the checking station, along with others in the New South Wales, is detecting more heavy vehicle offences than ever because of sophisticated technology and a targeted approach. The number of inspections on higher-risk vehicles has gone up and the number of inspections on well-behaved drivers and operators has gone down. In addition, the New South Wales and Australian governments recently called for tenders to build a new southbound heavy vehicle checking station at Mount White, further strengthening heavy legal enforcement on the busy freight corridor between Sydney and Newcastle. I will return to that in a moment, but I first will inform the House about the dramatic increase in detecting heavy vehicle offences. Recent media statements by the Opposition about heavy vehicle checking stations highlighted the success of the RTA in this regard as much as it has highlighted how much the Opposition is out of touch. A new targeted approach at RTA heavy vehicle checking stations—

[*Interruption*]

If Opposition members would listen, they would learn something. A new targeted approach at RTA heavy vehicle checking stations has resulted in a dramatic increase in the number of offences detected. It is a smarter, more effective way of finding faulty vehicles. Overall, there has been a massive increase in the number of offences detected at New South Wales heavy vehicle checking stations. Here is the punch line, in case those opposite miss it: the number of heavy vehicle offences detected increased by 93 per cent between 2000 and 2005, with 36,191 detected in 2005 compared with 18,753 in 2000.

The Hon. Michael Gallacher: What do you mean detected, just going through those Safe-T-cams? Is that what you call detected?

The Hon. ERIC ROOZENDAAL: I will explain it, all right Captain Dodo?

The Hon. Michael Gallacher: Dodo? You are the one who is going into extinction.

The Hon. ERIC ROOZENDAAL: How well are The Nationals performing? They are losing members every year. There has also been an increase in the percentage of trucks being stopped and issued with infringements or penalty notices. As I have said, the number of inspections on higher risk vehicles has gone up while the number of inspections of well-behaved drivers and operators has gone down. This is done by using screening technology to target vehicles identified as being at high risk of offending, a methodology borrowed from policing. The RTA uses a system called Truckscan to carry out more detailed checks of these high-risk vehicles. Vehicles with poor offence histories or those that have not been inspected by the RTA are directed into checking stations for inspections, even if they pass initial mass, height and Safe-T-Cam checks.

This methodology is about using RTA resources more effectively. Providing effective services to the community is an alien concept to the Opposition, which seeks to cut front-line community services by sacking 29,000 public servants, including massive job cuts to the RTA, and this will damage communities across New South Wales. As everyone knows, the Opposition has said it will not fill any vacancies to meet its target of reducing the number of public servants by 29,000. There are currently 14 vacancies in the heavy vehicle area, which are being filled. But under the plan of the Leader of the Opposition these positions would not be filled, and that means that we will lose important front-line people who detect heavy vehicle offences. Each offence detected by the RTA is a road safety win for the community. At Mount White offences detected rose by more than 70 per cent to 6,944 in 2005 from 4,00 in 2000.

HARBOUR BRIDGE EXIT MOTORCYCLE FINES

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I address my question without notice to the Minister for Roads. Is the Minister aware that on 23 August this year a number of motorcyclists were fined for riding in a bus only lane, which is allowed to be used by motorcycles and taxis exiting the Harbour Bridge into York Street, after a "buses and taxis only" sign was put in place without warning? Is the Minister aware that the same thing happened in 2004, and that a speech I made in the adjournment debate resulted in the Minister at that time changing the sign in question? Is the Minister aware that the sign has been reversed so that it now reads "No entry—buses, taxis, hire cars and motorcycles excepted"? Will the Minister assure the House that motorcyclists booked for the offence on 23 August are contacted and that their fines are cancelled? Will he also ensure that they are not penalised two demerit points?

The Hon. ERIC ROOZENDAAL: This issue was raised in the budget estimates hearing last week. I am advised that bus lanes can be used legally by buses, taxis, hire cars, motorcycles and bicycles. However, cyclists are not allowed to use the bus lane on the Harbour Bridge because they have their own lane. I am advised that a sign was put up to remind motorists coming off the Harbour Bridge who is entitled to use the bus lane.

The Hon. Melinda Pavey: Where is the cycle lane on the Harbour Bridge?

The Hon. ERIC ROOZENDAAL: If the honourable member would use the Harbour Bridge, she would see it.

The Hon. Melinda Pavey: It is a pedestrian crossing.

The Hon. ERIC ROOZENDAAL: Has the Hon. Melinda Pavey been on the Stan Zemanek program again? "Testing. Testing." A sign without motorcycles was inadvertently put up, but that was rectified within a number of days. I am advised that the RTA is investigating this matter.

TIMBER BRIDGES REPAIR PROGRAM FUNDING

The Hon. JENNIFER GARDINER: I direct my question without notice to the Minister for Roads. Given the dire state of many timber bridges in New South Wales, is the Minister aware that yet another member of Parliament, namely the honourable member for Dubbo, has proposed that funds to replace timber bridges be generated by an impost on ratepayers' motor vehicle registration fees? Is he considering any such measure?

The Hon. ERIC ROOZENDAAL: As I advised during an estimates committee hearing last week, more than $141 million is given to councils across New South Wales under the repair program and the Block Grants Scheme, which is to maintain regional roads, including timber bridges. In addition, the State Government will spend more than $35 million on timber bridges under the State Government's Bridge Maintenance Program. Between 1998 and 2004, 140 bridges were replaced or upgraded by the RTA at a cost of $163 million. These were primarily on State roads and were funded under the Country Timber Bridges Program. I am advised that the Auditor-General found that none of the nearly 5,000 bridges on State roads is currently structurally deficient or closed to traffic. I am advised that the RTA also manages some bridges on regional and local roads. I am further advised that the information provided to the Leader of the Opposition included these bridges, whereas the Auditor-General's report refers specifically to State roads, which are the arterial roads carrying the majority of State traffic.

PUBLIC RESERVES MANAGEMENT FUND

The Hon. IAN WEST: My question is directed to the Minister for Lands. Will the Minister advise the House what assistance the Government provides for various caravan parks and showgrounds on Crown land across New South Wales?

The Hon. TONY KELLY: I am pleased to announce that during the 2005-06 financial year, the Iemma Government made available more than $3.1 million for caravan parks on Crown land and $529,000 for showgrounds on Crown and freehold land. There are more than 900 caravan and residential parks across New South Wales. Of these, over 270—almost a third of them—are situated on Crown land. Many sites are located within scenic coastal or river settings. There are approximately 230 showgrounds in the State, with approximately 190 on Crown land and 40 on freehold land.

The Public Reserves Management Fund is responsible for providing assistance in the form of grants and loans to both caravan parks on Crown land and showgrounds situated on Crown land, as well as the 40 that I mentioned were on freehold land. In the case of caravan parks, the Caravan Park Levy Committee is responsible for reviewing applications for financial assistance. The committee comprises representatives from the Department of Lands and the Local Government and Shires Associations of New South Wales. Since the creation of the Caravan Park Levy Scheme in 1992, more than $32 million has been provided for park improvement works.

Some financial assistance includes several loans worth more than $ 1.2 million provided to the Tweed Shire Council as the corporate trust manager of four holiday parks in the Tweed shire. The funds went towards the replacement of the old amenities block, building a new covered barbecue area, a children's playground, and for installing five en suites in three cabins for the tourist sites at Pottsville North Holiday Park. Pottsville South was offered a loan to help to pay for the installation of pay TV and the Internet.

A loan was offered to Boyds Bay Holiday Park for a new barbecue area, construction of a games room and a children's playground, and at the Fingal Holiday Park loans have helped to install a new barbecue area and five new en suite units. More recently, in March 2006 the New South Wales Government offered a loan of $115,000 to the Red Rock Recreation Reserve Trust that went towards the replacement of the storage shed and the laying of underground powerlines at the Red Rock Caravan Park near Grafton. The Gosford City Council and the Lake Macquarie Shire Council as corporate managers of Patonga and Belmont Pines caravan parks respectively each received a $20,000 grant to help those councils pay for plans of management, thereby providing a framework for the future development of the parks.

In the case of showgrounds, funds are provided by the Public Reserves Management Fund through the Showgrounds Assistance Scheme. Both Crown reserves and freehold showgrounds are eligible for assistance under that scheme. The Showgrounds Standing Committee comprises representatives from the Department of Lands and the Agricultural Societies Council of New South Wales and is responsible for reviewing funding applications for showground improvements and making recommendations to me. Over the past 11 years, more than $6 million has gone towards the development and maintenance of numerous showgrounds, so honourable members may be interested to know some specific examples of how these funds are used to improve caravan parks on Crown land and showgrounds throughout the State.

In January 2006, funding totalling $43,000 was offered to the Hay Shire Council to help to pay for the construction of a multipurpose pavilion, stables and day yards at the Hay showgrounds. Two more recent examples are $9,000 grants to the Ashford and Inverell showgrounds on top of previous assistance received earlier in the year to both showground trusts.

RANDOM ROADSIDE DRUG TESTING

The Hon. PETER BREEN: My question without notice is addressed to the Minister for Commerce, representing the Premier and the Minister for Police. Is he aware that the recent announcement of a drug testing bus to test motorists for drug use will have a very small impact on the 17 per cent of fatal accidents involving illegal drugs? Is it a fact that the proposed roadside saliva test will be unable to detect drugs such as heroin and cocaine? How many drug-using motorists does he expect to intercept with one bus and a limited testing procedure?

The Hon. JOHN DELLA BOSCA: I am obliged to respond by pointing out that the question is based on a number of false assumptions about the appropriate way to manage compliance in road safety, occupational health and safety or any related matter. The question is based on the idea that it is necessary to establish a gateway that tests every individual or tests a very large proportion of individuals because that is the only way to achieve better compliance.

Among other significant measures of detection, the main one is verification by police of the blood alcohol percentage of people who are involved in fatal accidents. My advice from my colleague the Minister for Roads and my recollection from when I was the Minister advising the Premier on drug matters is that approximately 17 per cent of all fatal accidents involve people who have a blood content of tetrahydrocannabinol [THC], which is the active ingredient in cannabis, and that a little over 20 per cent of people had traces of another illicit drug in their blood. A more than reasonable assumption is that there is a relationship between the use of illicit drugs and fatal accidents as well as serious non-fatal accidents. That is logical because for a long time we have understood the relationship between the more socially acceptable drug, alcohol, and antisocial road behaviour and road fatalities. All drivers, especially those involved in fatal accidents, will be tested for all drugs, and drugs will show up in the applicable blood tests.

With regard to the assertion inherent in the honourable member's question, that only one bus announced by the Minister recently is somehow a deficiency in the compliance regime, I point out that, obviously, the announcement may not reflect a fully rolled-out policy. But it is the beginning of an objective of this Government to be resolute about making sure that we reduce the road toll. The immediate and best ways of reducing the road toll in the interests of road safety is to reduce speed, reduce fatigue and reduce drug and alcohol use. They are the three obvious ways of reducing the risks of jeopardising road safety. When it comes to substances, it is clear that a policy gap exists. There is a fair bit of anecdotal evidence, albeit not conclusive evidence, that when young people, particularly young men, are having a night out, they use cannabis in preference to alcohol because they know that there is a much lower likelihood, or no likelihood, of cannabis being detected. I ask honourable members to cast their minds back to the tough issues on alcohol testing regimes when a former Minister for Police, George Paciullo—a Minister in the Wran Government—introduced random breath testing.

The Hon. Jennifer Gardiner: Was he a Labor Party Minister?

The Hon. JOHN DELLA BOSCA: He was a Labor Party member then, and he remains so, as far as I know. The bottom line is that debate went across party lines, as most honourable members would recollect.

A lot of people were very angry with the former Minister for Police at that time, but now there would be almost no-one in New South Wales who would argue in favour of moving away from the random breath-testing regime, which is now a fixed part of the road safety regime in New South Wales. The drug-testing procedure is a bold first step. The Minister for Police is to be congratulated for having taken it.

PACIFIC HIGHWAY TEA GARDENS INTERSECTION UPGRADE

The Hon. ROBYN PARKER: My question without notice is directed to the Minister for Roads. When will the Government undertake to build a flyover at the Myall Way intersection at Tea Gardens? The Roads and Traffic Authority, for which the Minister is responsible, claims that the $16 million cost of the flyover, as opposed to an at-grade intersection, is not justified by traffic volume, so will the Minister please explain to this House and the people of Port Stephens, Myall Lakes and Maitland how a saving of $16 million to the Government's already overbloated budget could possibly be worth losing another life? The question is when.

The Hon. ERIC ROOZENDAAL: I find it interesting that this Government gets lectured about blowing budgets by the crew opposite, who already have $20 billion worth of unfunded promises. Actually I stand corrected; it is probably closer to $22 billion.

The Hon. Duncan Gay: Put a paper out and justify it, you fool. Put out a detailed paper, you idiot. But you cannot, because it is a lie.

The Hon. ERIC ROOZENDAAL: He gets so upset. It is a bit disappointing. I am advised that the Myall Way intersection, formerly known as Tea Gardens Road, will be improved as part of section one of the Karuah to Bulahdelah Pacific Highway upgrade project now under construction.

The ACTING-PRESIDENT: Order! I call the Deputy Leader of the Opposition to order for the second time.

The Hon. ERIC ROOZENDAAL: Following representations by sections of the community, the former Minister for Roads asked the roads and Traffic Authority [RTA] to review the proposed at-grade intersection for the junction of Myall Way and the Pacific Highway. I am advised that the RTA engaged two independent consultants, Connell Wagner, and Robert MacDonald and Associates, to assist in the review of the proposed design of the intersection and calculate the cost of building a grade-separated interchange, including a flyover at that location. The review, released on 13 December 2005, found that the improved at-grade intersection would have the capacity to safely accommodate current and future traffic growth trends for the next 10 years.

The Hon. Robyn Parker: That is over 10 years, but not before you build a flyover.

The Hon. ERIC ROOZENDAAL: Oh, dear! Based on funds available for the upgrading of the highway, funded by the State and the Federal governments an overpass could not be justified at this stage. In relation to the Karuah to Bulahdelah section, construction is progressing well on section one of the project and it is expected to be completed by the end of the year.

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

MENTAL HEALTH PATIENT DETENTION

The Hon. JOHN HATZISTERGOS: On 30 August 2006 Reverend the Hon. Dr Gordon Moyes asked me a question relating to Ms Kylie Fitter. I now have the following response:

> The Minister Assisting the Minister for Health (Mental Health) makes recommendations to the Governor regarding the conditions of forensic patients in New South Wales with the aim of achieving community safety and the best prospect for the patient being successfully rehabilitated.
>
> Some of the criteria considered when reviewing recommendations include:
>
> - risk assessments;
> - the level of a patient's compliance with the rehabilitation program;

- victim impact statements;
- and the level of insight a patient has into their offence and their illness.

These criteria are considered consistently across the board in every case and as such are considered when recommendations are made concerning this young woman.
Experience has shown that the greater care in preparing a forensic patient for release, the greater the chance they have for successful rehabilitation.

Therefore, in the interest of forensic patients, and ultimately the community, extreme care is taken in approving recommendations from the Tribunal for the release of a forensic patient.

WOMEN'S HEALTH AND SEXUALLY TRANSMITTED DISEASES EDUCATION

The Hon. JOHN HATZISTERGOS: Yesterday Reverend the Hon. Fred Nile asked me a question relating to a new vaccine to protect against the human papillomaviruses (HPVs), sexually transmitted infections and related education. I am able to supply the following information:

HPVs are small DNA viruses that infect and replicate within mucosal and skin tissues, most commonly involving the skin or anogenital tract. In the majority of women who will be affected by this in their lives, these HPV infections—both high-risk and low-risk types—will clear spontaneously within 12 to 24 months, though in a small proportion, infection with high-risk HPV genotypes will persist and lead to cervical cancer over a 10-to-15-year period. Cancer of the cervix is the second most common cancer among women worldwide, second only to breast cancer. Almost half a million new cases and over a quarter of a million deaths were attributed to cervical cancer in 2002. Until now there have been no effective options for primary prevention of cervical cancer. However, secondary prevention, in the form of cervical screening, has been very effective, particularly in developed countries, in reducing the incidence of and mortality from cervical cancer.

Currently there are two HPV vaccines in large clinical trials. CSL's Gardasil provides protection against four HPV genotypes, and GlaxoSmithKline's Cervarix will protect against the two most common cancer-causing strains. Both vaccines are highly effective at preventing persistent infection in women between 10 and 26 years of age. I am advised that the Australian Technical Advisory Group on Immunisation has made recommendations on the use of both the vaccines to the Pharmaceutical Benefits Advisory Committee [PBAC]—a Commonwealth body. The PBAC is yet to consider these applications.

The New South Wales Sexually Transmissible Infections Strategy 2006-2009 provides the overarching framework for the control, detection and management of sexually transmissible infections [STI] in New South Wales. The strategy identifies the priority activities required to reduce STI infections, and to improve the health of those affected by STIs, in the coming four years. The strategy provides guidance on the implementation of STI education programs to young people, including support to professionals working within the school system. Health education in schools, including in relation to personal relationships and protection against sexually transmitted infections, is the responsibility of the Minister for Education and Training.

I am advised that the New South Wales education system has excellent sexual health education programs, which are delivered through the Personal Development, Health and Physical Education Syllabus. The implementation of the syllabus is supported by the national Talking Sexual Health framework for schools. I am advised that NSW Health closely supports those working with the education system to deliver those programs.

Questions without notice concluded.

[*The Acting-President left the chair at 1.05 p.m. The House resumed at 2.45 p.m.*]

JOINT COMMITTEE ON THE OFFICE OF THE VALUER-GENERAL

Report: Third General Meeting with the Valuer-General

The Hon. Kayee Griffin, as Chair, tabled report No. 53/04, entitled "Report on the Third General Meeting with the Valuer-General: Together with Transcript of Proceedings and Minutes", dated September 2006.

Ordered to be printed.

The Hon. KAYEE GRIFFIN [2.46 p.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Kayee Griffin.

STANDING COMMITTEE ON LAW AND JUSTICE

Report: Workers Compensation Injury Management Pilots Project

Debate resumed from 30 August 2006.

The Hon. CHRISTINE ROBERTSON [2.47 p.m.]: The evaluation of the four workers compensation injury management pilots project involved the return-to-work rates of pilot participants compared with New South Wales scheme results by Campbell's Monitor, self-analysis by three of the pilot providers, EMI, QBE and Central West Injury Management Services, and a results workshop attended by pilot managers and pilot evaluators. They were just some of the elements involved in the evaluation process.

WorkCover then prepared an evaluation report, synthesising the results of the analyses prepared by the various consultants. As the evaluation demonstrates, the critical components of injury management include higher levels of customer service, focus on the needs of both the injured worker and the employer to produce better outcomes, a consistent and easily contactable case manager, the promotion from the outset of clear communication, the adoption of case conferencing and/or review to reduce claim duration and streamline case management, adequate staffing levels, including well-trained case managers, an attention to speed and efficiency in processing all claims to allow staff to concentrate on injury and issues management, an attention to proactive education of workers and employers about the injury management process, and the need for active provision of information and training about injury prevention.

The key finding of the evaluation report—and, I should add, a most encouraging one—is that it is possible to achieve major improvements in injury management and return to work. The evaluation highlighted the critical importance of a case manager approach to injury management. Put simply, this means that one person is appointed to be responsible for the active management of an injured person's return to work. The Standing Committee on Law and Justice is pleased to note WorkCover's advice that all insurers have adopted a new case management model. The first recommendation in the committee's report urges WorkCover to continue applying and developing the case management model. The review found that WorkCover actively shared information while the pilots were being undertaken and that insurance companies and employers involved in the process took the issues on board in a positive manner.

Another major component of successful injury management identified by the pilots project is the speedy and efficient notification of injuries and claims processing so that injured workers do not have prolonged waiting periods for compensation payments. According to WorkCover, the introduction of provisional liability—which requires insurers in the majority of cases to commence weekly compensation payments within seven days of notification of injury—has resulted in an increased number of workers receiving their weekly benefits within seven days of notification of injury and, as a consequence, a reduction in the overall level of disputes.

A further major component of effective injury management identified by the pilots is the need for clear information about the system. WorkCover told us that the Claims Assistance Service is meeting this objective by providing information and assistance about entitlements to workers, employers and others. This helps workers and employers to resolve complex issues and potential disputes without recourse to lawyers.

The last major component of the injury management process identified by the pilots project is that of injury prevention. WorkCover has now begun to roll out seminars on injury prevention in workplaces across the State, particularly in rural and regional areas. WorkCover has also developed fact sheets that provide information to employers about what they need to do to improve their injury management and health and safety practices.

WorkCover has not yet established cross-industry benchmarks for an integrated injury management and claims management approach. The reason given for this is that the available data gathered during the 12-month period allocated for the pilots was insufficient for this purpose. The committee remains convinced that the establishment of benchmarks would be beneficial both to the injury management process and to the scheme as a whole, and recommends using any alternative means possible.

The committee concludes that the injury management pilots project has clearly succeeded in identifying the critical components of the injury management process and that WorkCover has already begun to address the

majority of the key findings of the evaluation report. We are particularly pleased that, as a result of the pilots project, a number of wide-ranging reforms to the Workers Compensation Scheme have been made to ensure that injured workers are provided with the treatment and support they need to return to work, including the introduction of the case management model, provisional liability, the claims assistance service, and a greater emphasis on providing information and training for injury prevention.

I thank my colleagues on the committee. I point out that this was the last inquiry on which the Hon. Greg Pearce acted as deputy chair, and I thank him for his work. During the inquiry there were many stressful times for committee members, an indication yet again that the committee functions well in dealing with such important issues. I am also grateful to committee members for their bipartisan approach to the inquiry, and the committee's findings and recommendations. I also thank the committee secretariat for its assistance in administering the inquiry and drafting the report. The secretariat has always been very supportive of the committee.

The committee valued the input of various stakeholders, including CGU Workers Compensation New South Wales, Injuries Australia, QBE Workers Compensation, Campbell Research and Consulting, and WorkCover, particularly its representatives Mr Rob Thompson, the Acting General Manager of the Insurance Division, and Ms Mary Hawkins, the Director of the Injury Management Branch. The committee is aware of the considerable time and resources involved in preparing submissions and giving evidence. I commend the report to the House.

The Hon. GREG PEARCE [2.55 p.m.]: I will speak briefly to the report. As the chair of the committee said, I was deputy chair of the committee during the inquiry. In one sense the inquiry looked at fairly narrow issues, but I believe it made a valuable and useful contribution to the administration of the WorkCover scheme in New South Wales. The pilot projects involved took place some years ago, and of course things have moved on in many respects. I believe that in the context of trying to improve injury management the pilot projects were useful, and that is the basic thrust of the committee's report. The committee referred to some continuing concerns that have already been referred to in a number of reports on the WorkCover scheme.

One issue that has been of concern to me for some time is data integrity and the production of data by WorkCover and the insurers. Chapter 3, paragraph 3.55 of the report refers to that issue. That part of the report also refers to outstanding issues in relation to disputes, the possibility of extending the case management model to self-insurers, the tail project, and the assessment of permanent impairment. The assessment of permanent impairment has continued to be of considerable concern arising from the various reforms to tort law introduced by the Carr Government and now the Iemma Government.

In May this year the Minister finally issued a ministerial statement regarding reforms to the Occupational Health and Safety Act, and the review he intends to undertake of that Act, which is well and truly overdue. In relation to WorkCover, we still have the ludicrous situation of there being different thresholds for people who have accidents to establish non-economic loss—10 per cent for motor accidents compensation and 15 per cent for workers compensation. The Government needs to address those issues. Although the issues are not directly part of the report, the committee referred in chapter 3 to the need for an objective assessment of permanent impairment.

Other significant areas of concern regarding the tort reform process are not covered by the committee's recommendations. However, it is important to remind honourable members that there is still an issue about whether commutations would be a better way to proceed than the sort of model we are looking at here. Certainly the pilot projects were useful in their approach to injury management, but the whole issue of commutations still needs to be reviewed. In relation to legal costs, I do not advocate that the system should be reversed, to return it to the way it operated earlier. However, there are still some anomalies, particularly in relation to the maximum amount of costs to be recovered by a plaintiff in various levels of claims.

I would like to thank the chair and other members of the Standing Committee on Law and Justice for their hard work during the inquiry. That we were able to get through the quite technical issues involved in the review of these pilot projects and come up with a good report is in large part attributable to the efforts of committee members, and the secretariat and its staff. I note that some of the secretariat feel that at the moment they are not receiving the level of support they deserve from the Government, a feeling shared by most other staff of this Parliament. However, in doing its work the committee had a great deal of support from the secretariat staff, and I thank them for that. I commend the report to the House.

Motion agreed to.

BUSINESS OF THE HOUSE

Postponement of Business

Committee Reports Order of the Day No. 2 postponed on motion by the Hon. Ian West, on behalf of the Hon. Amanda Fazio.

LEGISLATION REVIEW COMMITTEE

Discussion Paper No. 1: The Right to Silence

Debate resumed from 21 September 2005.

The Hon. DON HARWIN [3.01 p.m.]: This discussion paper was tabled in the House in September 2005 and it is disappointing that only now, a year later, we have the opportunity to talk about it. I am still a firm believer that it is right and appropriate that this House discuss all joint committee reports in the time set aside by the House for that purpose. If in this session, or in the next Parliament, we need to look at the standing and/or sessional orders that allow only one hour each week for discussion of committee reports, that would probably be a good thing. Perhaps we could look at arrangements made in other jurisdictions for the discussion of committee reports. I refer in particular to the Senate, which does not have quite the same backlog as does this House. Nevertheless, in the past couple of weeks we have been making good progress in dealing with that backlog, and we now come to the motion standing in my name, That the House take note of the Legislation Review Committee discussion paper on the right to silence.

This is an excellent paper. As I have previously said in this House, it is testament to the very competent committee manager and officers of the Legislation Review Committee and their excellent work. The paper elucidates the issues cogently for members of this House and the wider community. This is a very important issue because it is concerned with the principles that the Legislation Review Committee should apply when considering bills that trespass on the right to silence—one of the most fundamental civil liberties that form part of the rule of law and have been a feature of our common law for centuries. The discussion paper states:

> In commenting on bills, the Committee has applied the general principle that the right to silence is a fundamental right enshrined in the International Covenant on Civil and Political Rights and the common law.

It is important to note that not only has this right featured in centuries of English common law but also it is now a feature of international law. However, the committee also recognised in the discussion paper that "the scope of the right to silence is not clearly defined" and "there is no clear principle to which reference may be made in determining when it is acceptable for the right to be surrendered in the public interest". It is always the case that all our rights are understood to be within certain parameters—and the right to silence is no different. The discussion paper's points on how to define those parameters are very appropriate and topical. The committee identified the following seven issues in relation to the right to silence:

- When is the abrogation to the privilege justified?
- Should the privilege apply to documents?
- What principles should apply to the direct use of information obtained in breach of the privilege?
- What principles should apply to the derivative use of information obtained in breach of the privilege?
- What information, if any, should a person who is compelled to provide self-incriminating information be required to give?
- What action, if any, must a person take to enjoy the privilege of any immunity on the use of information provided?
- What procedural safeguards should exist where the privilege can be abrogated?

For the purposes of the discussion paper, the committee considered the matter from a variety of standpoints. They were, as set out in the report:

- The nature and origin of both the right to silence and the privilege against self-incrimination in common law
- The preservation, modification or abrogation of the right to silence and privilege against self-incrimination by Australian statute law

- The international and regional human rights standards on the issue, including the International Covenant on Civil and Political Rights and the European Convention on Human Rights
- The right to silence in comparable overseas jurisdictions, such as England and Wales, the United States, New Zealand, Canada and South Africa
- The position assumed by committees concerned with the scrutiny of legislation in other Australian jurisdictions, such as the Senate Standing Committee on the Scrutiny of Bills and committees in Victoria and Queensland.

A number of conclusions were drawn. Among the material considered by the committee was a Queensland Law Reform Commission report entitled "The Abrogation of the Privilege against Self-incrimination". The Legislation Review Committee formed the view that the commission's conclusions provided a useful starting point for developing principles for the committee to apply when considering bills in New South Wales. The committee's proposed principles include:

> A bill should not abrogate the right to silence unless such abrogation is justified by, and in proportion to, an object in the public interest.

The committee concluded that the privilege against self-incrimination depends for its justification on three points. They are, as taken directly from the report:

- the importance of the public interest sought to be protected or advanced
- the extent to which information obtained ... could reasonably be expected to benefit the relevant public interest
- whether the information relates to the conduct of an activity regulated under an Act, in which the individual is or was authorised to participate.

The committee concluded also that the appropriateness of a provision abrogating the privilege should be determined with consideration of several points, including:

- whether the information ... could not reasonably be obtained by any other lawful means
- the nature and extent of the use, if any, that may be made of the information as evidence against the individual who provided it
- whether the extent of the abrogation is no more than is necessary to achieve the purpose of the abrogation.

That was the starting point for discussion suggested by the Legislation Review Committee. The committee brought down its report shortly after I left the committee. Even though I had some knowledge of the preparation of the discussion paper, I am not in a position to report to the House what the committee has done with it. I hope that one or two of the three members, if not all three of them, who now serve on the Legislation Review Committee [LRC] can bring the House up to date on the committee's work on the right to silence. It was a very useful discussion paper, and it made quite clear in its executive summary that it was seeking comment on the principles it should apply when considering bills that trespass on the right to silence.

During my time on the committee and under the chairmanship of the Government Whip, the Hon. Peter Primrose, we had many lengthy discussions about what approach we should take and what principles we should apply when we prepare the bills digests, because they are important in highlighting concerns that relate to the rule of law and the liberties of individuals. Let us not forget that the LRC was formed as a result of a report of this House on whether we needed a bill of rights. We decided that we did not need a bill of rights, but that we needed a Legislation Review Committee. The principles that the LRC apply, such as those regarding the right of silence, are a critical part of the committee's work. I hope the committee has continued to take the issue further, and I hope we hear from committee members about what they have done with the discussion paper in the ensuing 12 months.

Motion agreed to.

JOINT STANDING COMMITTEE ON ROAD SAFETY

Report: Aspects of Motorcycle Safety in New South Wales

Debate resumed from 22 September 2005.

The Hon. DON HARWIN [3.12 p.m.]: I do not propose to make a lengthy contribution. As I made clear at the time I moved the motion to take note of the report, I did so on behalf of my colleague the Hon. Rick Colless, who serves on the committee, and other members of the House so they would have the opportunity to speak to the report. I am pleased that since I set this precedent some time ago Government members are also moving motions to take note of reports. I commend them for that. The report is very detailed and lengthy. Members of the House and the committee's excellent manager, Ian Faulks, have put a lot of work into it. I commend discussion of the report to the House in this take-note debate.

The Hon. RICK COLLESS [3.13 p.m.]: It gives me great pleasure to commend to members the report, which publishes individual reports on two seminars on motorcycle safety held in 2005. On 4 May 2005 the Motorcycle Council of New South Wales and the Motor Accidents Authority held a seminar on motorcycle protective clothing. The seminar, titled "Gearing Up", was designed to examine the protective clothing and gear that motorcyclists need to maintain their safety while riding their machines. On Friday 3 December 2005 the Staysafe committee, together with the Australasian College of Road Safety and with the assistance of the Motor Accidents Authority, held a seminar on various motorcycle safety issues. The papers presented at that seminar were neither a comprehensive report nor a review of motorcycle safety in New South Wales, but more an opportunity to bring together parliamentarians, motorcycle riders, organisations, local government and public sector officials to consider motorcycle safety.

The recommendation from the seminar held on Friday 3 December was that the Staysafe committee conduct an inquiry into motorcycle safety in New South Wales. The seminar brought home that motorcyclists are more at risk on the road than any other road user because of a lack of protective shields when they are operating their machines. It is fair to say that the motorcycle industry in New South Wales has grown dramatically in the past few years. In 2005, 100,000 motorcycles were registered, which reflects activity in the motorcycle industry that has not been seen since the early 1970s. It is interesting to note that riders over the age of 40 years now comprise 48 per cent of registered bike owners in New South Wales, which is a dramatic 135 per cent increase in the number of older riders since 1995. Many people of the generation of members of this House are realising the pleasures and recreational advantages of motorcycling. Those who enjoy it really enjoy it, and those who have not experienced it have really missed out.

The Hon. Charlie Lynn: They will never know.

The Hon. RICK COLLESS: The Hon. Charlie Lynn, who is an avid motorcyclist and the owner of a late-model motorcycle, points out that they will never know. He is certainly in the category of the 48 per cent of older registered bike owners. Some misinformation is being spread about the percentage of older motorcycle riders who are killed on the road. Quite often the uninformed have a view that older riders comprise the highest risk group on the road, but research by Liz deRome outlined in a paper presented to the December 2005 seminar showed that that was not the case: older riders are not the group at highest risk. Liz deRome pointed out that the rider group most at risk was those under 26. They own 10 per cent of the motorcycles on the road, but they are involved in 30 per cent of the crashes and 32 per cent of fatal crashes, compared with older riders in the over 40 age group, who own 48 per cent of the bikes but who are involved in only 28 per cent of the crashes and 27 per cent of fatal crashes.

We should take this information into account and consider the research presented in the document, because it sets the framework for motorcycle road safety programs. I firmly believe that we should have good education and road safety programs in place for all motorcyclists. But it is important to understand that we target particularly the group that is most at risk which, as I said, is the younger motorcycle riders rather than the older riders. However, 27 per cent of fatal crashes in the older group is also unacceptable.

As I am sure the Hon. Charlie Lynn would agree, those who enjoy motorcycling do not like to think that they will end up as a road statistic. When I rode a motorcycle—it too was a Harley Davidson—I used to

ride with a group aged over 40. The members of that group were very careful riders. Before acquiring my Harley-Davidson, I had not ridden a larger road bike.

The Hon. Duncan Gay: Recently?

The Hon. RICK COLLESS: It was not quite 20 years ago. The group was very careful on the road, never exceeded the speed limit and always rode very carefully along winding roads. Part of my enjoyment was riding with a group of people who had such a high respect for the rules of the road. Having made those few comments, I commend the report to the Parliament. As my colleague the Hon. Don Harwin has pointed out, it is a comprehensive report that hopefully will lead to a more intensive inquiry being undertaken into the issues surrounding motorcycle safety in New South Wales.

Motion agreed to.

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

Report: Handling of Health Care Complaints in Other Jurisdictions

Debate resumed from 13 October 2005.

The Hon. CHRISTINE ROBERTSON [3.21 p.m.]: This report is one component of a whole series of reports that were tabled in the lower House and received in this House. Perhaps more thought should be given to that procedure. The report concerns an inquiry being undertaken by the Committee on the Health Care Complaints Commission into the handling of complaints in other jurisdictions and enables us to compare the system in New South Wales with those in other jurisdictions. As part of the inquiry travel was undertaken by the honourable member for Orange, Mr Russel Turner, the honourable member for Londonderry, Mr Allan Shearan, and Mr Les Gönye.

Upper House members of the Committee on the Health Care Complaints Commission take their responsibilities on this oversight committee very seriously. The report provides information on the research undertaken by the group in April 2005 in Singapore, the United Kingdom, Ireland, the United States of America and Canada. The group has made recommendations for the consideration of the committee. I commend the report to honourable members.

Motion agreed to.

COMMITTEE ON THE OFFICE OF THE OMBUDSMAN AND THE POLICE INTEGRITY COMMISSION

Report: Seventh General Meeting with the Inspector of the Police Integrity Commission

Debate resumed from 13 October 2005.

The Hon. JAN BURNSWOODS [3.23 p.m.]: This is a report of an oversight committee whose function is similar to that referred to in an earlier debate by the Hon. Christine Robertson with regard to the Committee on the Health Care Complaints Commission. The report consists of nothing but the transcript of the seventh of regular meetings held with the Inspector of the Police Integrity Committee. The committee is chaired excellently by the honourable member for Liverpool, Mr Paul Lynch, and has multipartisan membership. The committee does a good job.

Motion agreed to.

STANDING COMMITTEE ON SOCIAL ISSUES

Report: Recruitment and Training of Teachers

Debate resumed from 8 November 2005.

The Hon. JAN BURNSWOODS [3.24 p.m.]: I take pleasure in commencing the debate on the thirty-fifth report of the Standing Committee on Social Issues, entitled "Recruitment and training of teachers". The report was tabled in October last year and we have since received a response from the Government. Although it would have been preferable to have had this debate earlier, which used to be the case before we had as many as 34 reports on the agenda, I nevertheless welcome the opportunity to engage in debate now. The inquiry into the recruitment and training of teachers was referred to the Standing Committee on Social Issues by a former Minister for Education and Training, Dr Andrew Refshauge. The report deals with a number of important issues. In many ways those have become even more important as time has passed because they relate not only to the recruitment and training of teachers but also more broadly to the recruitment and training of other professionals, particularly those that experience a large recruitment demand from predominantly State Government agencies.

In particular I draw to the attention of the House the many parallels between issues relating to the recruitment and training of teachers and the issues relating to the recruitment and training of nurses. I could probably nominate several other professions with parallels, but teaching and nursing are the two major professions in that category. For the good of our community, we need very large numbers of teachers and nurses. They are trained in universities, and many of the issues dealt with in the report concern the training of teachers at universities. The work forces in both teaching and nursing are predominantly female. That factor raises its own issues concerning resignation rates, the balancing of work and family responsibilities and the return of people to the profession after a considerable lapse of time in the context of retraining and moving from one area of a profession to another.

I make those preliminary points for the benefit of those who do not have a particular interest in education because this report is interesting not only because of its treatment of the importance of having a good supply of teachers for the sake of the whole community, but also to give pause for thought to those who are interested in other professions. The report deals with a number of different areas and contains a relatively small number of recommendations. The Government's response discusses the recommendations. The Government has accepted some recommendations completely, some in part, and some not at all.

I will briefly discuss the recommendations. The first couple of recommendations deal with the Board of Governance of the Institute of Teachers and the Quality Teaching Council. Much of the report deals with the Institute of Teachers, which was set up by statute in 2004. The first couple of recommendations of the report deal with the institute. I believe the Institute of Teachers is making a big difference to the professional status and professionalism of the teaching service in New South Wales. The report also deals with the need for the Department of Education and Training to have a strong presence in universities and to do more to ensure that people undertaking undergraduate courses, and who may later enter education, or people who undertake education courses from the outset, which is the more common practice, are attracted to the State Government's education system.

The department needs to ensure that it is competing effectively on campuses with private education providers that are chasing the best graduates. The department should ensure that would-be teachers are aware, right from the outset of their courses, of the mix of subjects they should study to equip themselves to teach the quite carefully structured courses that are offered by the State education system, particularly in secondary schools. The report also recommends that the Department of Education and Training should ensure that it is offering scholarships and maintaining a presence among students who are in the final year of their university courses because private education providers, particularly in relation to secondary technological subjects, maths and science, are present in universities months before graduation to recruit those students who are regarded as being among the brightest.

The report makes particular comment about scholarships and about a matter that has been reported in the media in the past couple of weeks: the appalling situation of the Commonwealth Government insisting on imposing fringe benefits tax on higher education contribution scheme payments made by the New South Wales Department of Education and Training as part of the scholarship that it offers. That is absolutely crazy and short-sighted in an area that the Commonwealth Government has admitted should not have students paying high

fees. The department is trying very hard to increase the number of graduates but the Commonwealth Government is making it difficult for that to happen by imposing fringe benefits tax on part of the scholarship. The committee certainly joined with many people in calling on the Commonwealth Government to stop that ridiculous practice.

The Hon. Charlie Lynn: Point of order: I am not quite sure that the committee did do that. The honourable member just referred to the committee condemning the Federal Government. I do not recall that happening during the committee proceedings.

The Hon. JAN BURNSWOODS: To the point of order: Recommendation 5 calls on the Government to "seek a commitment from the Commonwealth Government to review its policy of charging Fringe Benefits Tax on the Higher Education Contribution Scheme payments made by the Department of Education and Training through its scholarship program". Apart from the fact that the comment by the Hon. Charlie Lynn was not a point of order, what he said was factually wrong, and as a member of the committee he should know better.

The DEPUTY-PRESIDENT (Reverend the Hon. Fred Nile): Order! The Hon. Jan Burnswoods is in order in referring to a recommendation of the committee that relates to the Commonwealth Government.

The Hon. JAN BURNSWOODS: Recommendation 6, and a significant part of the report, deals with the Accelerated Teacher Training Program. Earlier I referred to the grave shortages in certain areas, particularly in secondary schools. In one controversial step, the department took qualified and experienced people in certain professions who had expressed an interest in retraining as teachers. That step was taken with regard to one group about which honourable members may have heard: people who had formerly worked for BHP with engineering degrees and a great deal of experience in a range of scientific areas were able to undertake a short course to retrain as teachers. There has been some controversy about this, partly because of the short duration of the course, and partly because of difficulties some people had in adjusting to a classroom situation. The committee heard considerable evidence and looked at the pros and cons of that step.

In another recommendation the committee called on the department to make public the findings of the 2006 evaluation of that relatively new program. That major evaluation is due to be carried out this year. The committee made recommendations dealing with the role of the Institute of Teachers—the development of standards, the need to make sure of the links in teacher education, the importance of induction of new teachers, and the role of continuing professional education.

The Institute of Teachers commenced only last year. It has a very important role to play in expanding the professionalism and status of the teaching profession. The committee devoted quite a lot of attention to discussing the need to look at all the different parts of the process including the institute consulting with universities about the design of courses through to the practicum, which is dealt with in recommendation 8; the induction period for new teachers; the need for continuing professional development and recognition of the role of continuing professional development; and an ability for teachers to have their work recognised for promotion opportunities and salaries.

Practicum supervision is quite difficult. Some years ago the former practice of paying teachers who supervised university students undertaking education studies was abolished. There were a number of reasons for that, one of which related to professionalism. It was argued for many years that in other professions—and medicine is probably the best known—the profession itself handled the post-graduate education and training, and professional development of its people. The professions would see that, perhaps slightly preciously, as insulting if it were suggested that people playing that role—specialists and so on—would need to be given extra payment to do so. The supervision of university students practising during their teacher training is quite onerous from the point of view of the supervisor and can cause big organisational difficulties in schools. It is often not very well organised at universities and may not be very well organised at schools. Without wishing to blame anyone, in that regard universities have found it more and more difficult to find schools that will participate. The schools that do participate often find they are bearing the burden with regard to timetabling, administration and interruptions to the classes affected, and they may not be amply compensated for what they feel they get from the young students.

[*Debate interrupted.*]

DISTINGUISHED VISITORS

The DEPUTY-PRESIDENT (Reverend the Hon. Fred Nile): Order! It is my pleasure to welcome to the President's Gallery a delegation from the Syrian Arab Republic, led by the Minister for Expatriates, Dr Bouthaina Shaaban.

STANDING COMMITTEE ON SOCIAL ISSUES

Report: Recruitment and Training of Teachers

[*Debate resumed.*]

The Hon. JAN BURNSWOODS: I also welcome the delegation. I will address the remaining recommendations briefly, as other honourable members may want to speak in this debate. The report covers extensively the Graduate Recruitment Program, and the committee requested that an evaluation of the program be made public so that everyone can see how it is progressing. The report contains much information about the very successful teach.NSW initiative, which has recruited many teachers to fill vacancies. The program created considerable interest and provided a very successful marketing and follow-up process. The report dealt with the slightly vexed issue of overseas trained teachers. This is also an issue for a number of other professions, particularly nursing. New South Wales, partly because of Federal Government university education policies, has simply been unable to obtain enough teachers and nurses. Sometimes overseas trained teachers are lacking in certain respects. [*Time expired.*]

The Hon. ROBYN PARKER [3.39 p.m.]: I speak in debate on the report of the Legislative Council Standing Committee on Social Issues entitled "Recruitment and training of teachers" to support many outstanding teachers in New South Wales. As a former teacher, as a parent and as a member of Parliament I know how important teachers are in our community and I am aware of the important role they play in leading young people.

Many become teachers because of the influence of a particularly outstanding teacher in their school years. When I ask teachers why they decided to train and ultimately become a teacher they often tell me it is because of the guidance of a particular teacher who stood out in their minds. This extensive inquiry into the recruitment and training of teachers was conducted some time ago. I echo the comments of the chair of the Standing Committee on Social Issues, who spoke earlier and thanked committee staff.

The committee, the membership of which is predominantly Labor, is not a balanced committee and, therefore, any comments made by the chair of the committee about the Federal Government do not necessarily reflect the views of all committee members. Nevertheless, because the Labor Government controls this standing committee that influence is apparent in its recommendations. So the views expressed in this report that relate to the Federal Government are not necessarily the views of all committee members, as the chair would like to have us believe.

All committee members, however, agreed unanimously that teachers required more support and the best training. We must encourage the very best people we can into the teaching profession. Not only should we encourage teachers and promote their recruitment, we must recognise that many teachers are being lost to the public system and we must put in place strategies to ensure that teachers stay longer than the few crucial years they remain in the public system after they have been trained. We must also put in place strategies to ensure that we have the best public education system in Australia. We require recruitment strategies to establish from what areas people are being recruited to the teaching profession and what ways we can enhance opportunities for people in rural areas to train as teachers.

This inquiry was established largely because of the drain of teachers into other professions and because of the age group problem. The teaching work force comprises mostly people in the 45-year-old to 49-year-old age group and the 50-year-old to 54-year-old age group. We have more than 11,000 teachers in each of those age groups—almost double the number of teachers in any other five-year age bracket. A few years down the track the departure of many teachers in those age groups will have a significant impact on our education system. The recommendations of this committee reflect the need to address the numbers of teachers being recruited, the standard of teachers being recruited and, most importantly, the ability to retain teachers in the teaching profession.

Throughout the inquiry the members of the committee were told that one the objectives of the Institute of Teachers was to achieve excellence. I note that because of the progress of the Institute of Teachers some of our comments are unable to be evaluated at this point. We are training teachers and we are then immediately placing them into a teaching environment. We heard considerable evidence to suggest that some of the best graduates are being targeted early by the non-government sector, or by independent schools. Why would they not be targeted and why would they not think that was an attractive move to make? Graduates are targeted and often go into non-government schools because they are offered more attractive salary packages, more opportunities and more support.

Much of the evidence we heard related to mentoring and supporting newly trained teachers. We must say to graduates, "When we place you in a school we will offer you the best mentoring and support." The Government must lift its game in that regard. There have been some toe-in-the-water attempts at this, but not enough has been done. Students are frequently being placed in hard-to-start schools; they find themselves in at the deep end and they are told to swim. So it is no surprise that within the first five years many leave. In fact, many leave much sooner than five years.

We must create an environment in which we mentor, encourage and support graduates who decide to embark on a teaching career, because they are doing it for the best reasons. To do that we require adequate and appropriate induction programs. Mentoring must be provided by teachers who have the experience, knowledge and ability to do so. However, they would need time out from their own classes and from face-to-face teaching to be able to do that. We require a quality mentoring program, but we must also provide teachers with the right physical environment.

Witnesses told the committee that the physical environment of many State schools was a disincentive to attracting graduates to the State system. They claimed that poor facilities provided a strong contrast to those available in private schools, and many graduates were attracted to other schooling systems. Professor Lovat, who gave evidence before the committee, said that the physical environment of school had the potential to impact on a graduate's desire to stay within the public system, particularly in the context of the pressure that graduates might be experiencing generally. He said:

> One would think it has to have some bearing on it, if people are dumped into a pretty awful situation. Granted everything else we have said about the high expectations on a first-day-out teacher to perform, if it is also in a poor environment, that just exacerbates the problem.

Ms Knox, one of the teachers who gave evidence, stated:

> Teachers still have to suffer very old brick buildings that have no air-conditioning. The children are hot and the teachers believe they are disengaged in the latter part of the day. You do all the things you would normally do to make kids' lives easier in a hot climate. You make the breaks smaller, you change the times when they are outside in the playground, but they still come into very hot classrooms. That most certainly has an effect on teachers.

I remind honourable members of the $18 million maintenance backlog from which we suffer in New South Wales schools, which is much less than the $120 million that was wasted on a desalination plant that we do not have. There are some casualties in the teaching profession because of the physical environment in which they are required to work.

Pursuant to standing orders debate interrupted.

CRIMES LEGISLATION AMENDMENT (GANGS) BILL

POLICE INTEGRITY COMMISSION AMENDMENT BILL

Bills received.

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

Motion by the Hon. Eric Roozendaal agreed to:

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

Bills read a first time and ordered to be printed.

PHARMACY PRACTICE BILL

Second Reading

Debate resumed from an earlier hour.

Ms SYLVIA HALE [3.49 p.m.]: Before the debate was interrupted I was talking about the importance of consistency with regard to the ongoing educational requirements of pharmacists. Since then I have been handed a copy of a letter the Minister for Health sent to the President of the New South Wales branch of the Pharmaceutical Society of Australia. Unfortunately the letter is not dated so I do not know whether it was sent in the past week or whether the Pharmaceutical Society of Australia has had an opportunity to respond to the assertions in the letter. The letter reconfirms that the Minister does not believe there is any need to mandate in the bill continuing education for pharmacists. He points out that that is not required in other legislation, including the Medical Practice Act 1992.

I have considerable difficulty with that decision. New drugs come onto the market at an alarming rate. There is a clear history of difficulty with prescribing medication that is not properly tested or with prescribing medication in ignorance of a consumer's complete condition. I do not know whether the Minister's assertions are correct; they certainly do not correspond with the information we have received from the Pharmacy Society. The bill offered an opportunity for New South Wales to take the lead and mandate ongoing education for pharmacists. In Victoria a great number of accredited courses are run by different bodies, including the Pharmacy Guild, the Pharmaceutical Society, and private and public education institutions. The system allows practitioners to choose an area of study relevant to their professional area or interests, and it ensures that the qualifications of registered practising practitioners are updated regularly.

The Greens believe this is essential in an area as important and fast moving as public health and medication. I expect the Minister, in replying to the debate, to provide convincing reasons for not mandating ongoing professional development in New South Wales. Unfortunately, the Government's refusal to incorporate ongoing education could result in Victorian pharmacists who may be unwilling to update their skills seeking registration in New South Wales. Over time, this could lead to lower professional standards in New South Wales. I ask the Minister to explain the safeguards that will be put in place to ensure that that does not happen.

I understand that the bill has been two years in the making. Despite this, public consultation with key stakeholders has been poor. While the Pharmacy Guild has had ample access to the Government—I note that the Minister's second reading speech mentions the strong advocacy of the guild—sadly other stakeholders have not had the same access to the Minister's office. The Pharmaceutical Society, which has approximately 4,400 members in New South Wales, was shown the bill only three times in two years. I say it was "shown" the bill because that is apparently what happened. The society was given approximately one hour to view the draft bill and then make comments on the spot but it was not permitted to take away a copy of the bill. It is a ludicrous proposition to expect an organisation to give meaningful consideration to proposed legislation without being permitted adequate time in which to analyse and comment on a draft of that legislation. The denial of adequate time to examine proposed legislation is all the more reprehensible in this case because, at 113 pages, this is one of the largest bills I have seen come before the House.

The friendly societies report equally poor treatment. While I am pleased to see that the Minister noted in his second reading speech the valuable work of the friendly societies and the important role they play in the pharmacy sector, the Government has a long way to go before it recognises the not-for-profit friendly societies as players with a stake that is equal to, if not greater than, that of the commercial sector when it comes to negotiation and consultation.

That brings me to one of the Greens' main criticisms of the bill. The Government's modus operandi in developing legislation is to work closely with a small group of favoured stakeholders who have almost unfettered access to the Minister, while the broader community and other stakeholders are virtually ignored. We see this in the planning area all the time. For example, fundamental changes were made to the Environmental Planning and Assessment Act in close consultation with the Property Council of New South Wales, while community and environment groups and the broader community were not consulted. They are often locked out of the decision-making process altogether. I understand that NSW Health operates in a similar fashion. Large stakeholders—usually large commercial entities—are given generous access while smaller organisations, such as not-for-profit entities in the community health care sector, are largely excluded from the process.

As always, the fog of political donations distorts the process further. The Greens note that it was the Pharmacy Guild, the lobby group that represents approximately 1,600 shop owners, that had the ear of the Minister. The Pharmaceutical Society, the professional body that represents more than 4,000 pharmacists in this State, and the not-for-profit friendly societies got to see the bill only after it was drafted. We also note that in the past five years the Pharmacy Guild has donated $74,450 to the New South Wales branch of the Australian Labor Party and a further $41,300 to Federal Labor, while the friendly societies donated $2,750 and the Pharmaceutical Society donated nothing. Who says money does not talk?

Notwithstanding the poor consultation, the Greens are pleased to see the current Act finally being reviewed after 42 years. As I have said, we have concerns about the lack of a requirement for ongoing professional education. I understand that the Christian Democratic Party may move amendments in Committee to address a number of these issues. Finally, I thank the Pharmaceutical Society and the friendly societies for liaising with crossbench members about the bill.

Reverend the Hon. FRED NILE [3.57 p.m.]: The Christian Democratic Party is pleased to support the Pharmacy Practice Bill, a very comprehensive bill that addresses a major concern in the community and among those involved in the pharmacy business in New South Wales by prohibiting the co-location of pharmacies and supermarkets. There has been an ongoing debate about that issue and I am pleased the Government has resolved it with this bill.

The co-location of pharmacies and supermarkets could put pressure on pharmacists to maximise profits at the expense of professional standards, patient welfare, and the public interest with regard to the safe use of pharmaceuticals. We have watched supermarkets extend their businesses from retail into petrol. That is having a damaging effect on petrol stations across New South Wales, and it has forced a number of smaller independent operators out of business. I am pleased we will not face a similar problem with pharmacies.

The bill will give the Pharmacy Board of New South Wales power to ensure that pharmacists remain fit to practice and are professionally competent. The board will have certain powers. I foreshadow an amendment I will move in Committee that will endeavour to give it more powers. Under the existing legislation the board will have the power to require pharmacists to annually provide information on their continuing education activities. The board will also be empowered to suspend the registration of pharmacists where that action is required to protect the life or health of any person. The power to monitor continuing education activities will provide a valuable mechanism to address concern that some pharmacists are not taking appropriate steps to maintain their professional competence, and it is consistent with Acts that govern other health professions in New South Wales, including the Medical Practice Act.

This legislation will replace the Pharmacy Act 1966—a review was well overdue—and has been the subject of extensive consultation with stakeholders including the Pharmacy Guild, the Pharmaceutical Society of Australia, the New South Wales Pharmacy Board and the Australian Friendly Societies Pharmacy Association. On 16 May 2006 Mr Si Benrimoj, the President of the Pharmaceutical Society [PSA] of Australia (New South Wales Branch) Limited, wrote to me and suggested amendments to the legislation. Today I contacted Steven Drew, the Chief Executive Officer of the New South Wales branch of that association, who confirmed that it still wants me to move those amendments. The letter states:

> The PSA NSW is the peak professional organisation for all pharmacists and assistants in New South Wales. PSA NSW provides advocacy and education to support all pharmacy professionals in improving the quality use of medicines and delivery of advanced patient care.

The PSA is very interested in the progress of the bill, is pleased it has been introduced, but is disappointed that one of its key recommendations has not been included. It states:

> Specifically, the PSA NSW, strongly believes in the need for continuing education to be part of pharmacists to ensure competence and the provision of high quality service to consumers and public safety.
>
> We are therefore exceptionally disappointed at the absence of provisions within the Bill which provide the Pharmacy Board with sufficient and proactive powers in this area. We firmly believe the safety of the community is compromised in the absence of this power in the proposed Bill.

The PSA makes a very valid point as to why it believes it should have this additional power. I constantly use medical sprays for asthma and I note the increased positive role that pharmacists play in providing advice as to how, and how often, I am to use the spray. Pharmacists have become more proactive and are not just like a shop

assistant who sells a product. They inquire within the range of their professional qualifications about the health of the consumer. The letter further states:

> As you would be aware, the pharmacy profession is going through dramatic change as it takes on a more intensive and important role in community health care and promotion. This has resulted in a significant change in the role of pharmacists over recent times. The role of a pharmacist has moved on from simply dispensing pharmaceuticals to providing professional advice and services to the community on the quality use of medicines and disease management. Therefore, it is essential that pharmacists be required to maintain their level of knowledge and skills on a continuing basis so that the NSW community can be confident their pharmacist is providing them with the most current and relevant services on every occasion.

That is the basis on which the Pharmaceutical Society of Australia, New South Wales branch, seeks to obtain additional power and it is embodied in my foreshadowed amendments. The PSA also believes that what it seeks already applies in Victoria and Tasmania. However, it appears from discussion with the Minister that that is not completely accurate. The Acts in those States do not contain that additional power. The letter continues:

> In staunchly advocating the reportable continuing eduction, the PSA NSW is not seeking to delay or disrupt the commencement of the Bill. Rather, we are aiming to avoid a situation where the safety of the community is compromised by pharmacists possessing sub-standard competencies. Quite simply, ensuring that continuing eduction is an on-going component of the pharmacist's professional life will increase community health and safety. Continuing education also makes it easier for a pharmacist to keep in contact with the profession and its developments, something which is of great importance when we have many pharmacists working by themselves, especially in rural and regional NSW.

I have no doubt that today a lot more is required of pharmacists, as important medications regularly become available which, if not fully understood by pharmacists, could cause harm to the health of the consumer. It is not just a matter of a general practitioner providing a script to the patient and the pharmacist dispensing the medication; a consumer must understand how to use the medication. Often medication is just a pill but medication for asthma involves following a number of directions to correctly use a spray and then take appropriate action after having used it.

One of my foreshadowed amendments deals with continuing professional education. One amendment deals with the board seeking a power to remove persons from the register in certain circumstances. I understand the Government is not prepared to give the board that power but I know why it is wanted. The Christian Democratic Party supports the bill, and is pleased it has been introduced.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.07 p.m.]: The Pharmacy Practice Bill will repeal the Pharmacy Act 1964 and create a new statutory regime for the registration of pharmacists and the regulation of pharmacies in New South Wales. The bill is the result of the Council of Australian Governments [COAG] national review into pharmacy legislation and the Pharmaceutical Benefits Scheme provisions of the National Health Act. COAG accepted the final report of the review and referred it to each State for implementation in August 2002. When this Parliament debates legislation that is actually a template for national legislation it shows the uselessness of States and the need for a different form of government in Australia. It is Australian Democrats policy to abolish the State parliaments, and I flag this instance as another piece of evidence in favour of that policy.

The objects of the bill are to provide for the registration of persons as pharmacists and regulate the conduct of registered pharmacists, establish a code of professional conduct, and to prohibit persons or entities from indicating that an entity is a pharmacy business unless that entity is permitted under the proposed Act to carry on that business. The proposed new Act will require registered pharmacists and the holders of pecuniary interests in pharmacy businesses to furnish an annual return to the Pharmacy Board, and registered pharmacists will be required to notify the board of convictions and criminal findings of various offences.

The new regime will provide a new framework for making and referring complaints against registered pharmacists and for disciplinary proceedings in respect of such complaints. For instance, the board may suspend, or impose conditions on, the registration of a pharmacist in order to protect the public. An appeals mechanism against actions of the board and the Pharmacy Tribunal for the review of disciplinary action taken is also established under provisions outlining the functions and procedures of the board, the Pharmacy Care Assessment Committee, Impaired Registrants Panels and the Pharmacy Tribunal. The New South Wales branch of the Pharmaceutical Society of Australia [PSA] wrote me a letter on 16 May 2006 in which it said:

> The PSA strongly believes in the need for continuing education on the part of pharmacists to ensure confidence and the provision of high quality services to consumers and public safety. We are therefore exceptionally disappointed at the absence of provisions within the bill ... which provide the Pharmacy Board with sufficient and proactive powers in this area. It is essential that pharmacists be required to maintain their level of knowledge and skills on a continuing basis so that the community can be confident in their pharmacists providing them with the most current and relevant services on every occasion.

I took up this matter with the office of the Minister for Health. My office was told by the Minister's office that it had sent a letter to the Pharmaceutical Society saying it is open to further discussion about continuing education. However, it was not until my office contacted Mr Steve Drew, the Chief Executive Officer of the New South Wales branch of the Pharmaceutical Society of Australia, that it became aware of any such correspondence and offer. The letter has since been faxed to the PSA, and I thank the Minister's staff for doing so. I hope that their meeting with the Minister next Monday results in an agreement whereby regulations can resolve the matter of continuing education.

The Minister's minders tell me there is no mandatory continuing education for pharmacists, or for doctors. I know that because one has to state what continuing education one has done, and the Medical Board may at its discretion comment or act on that, particularly if there has not been ongoing education for three years. I believe that is not a statutory requirement. A number of colleges within medical registration—for example, general practitioners, occupational health physicians, as well as physicians and surgeons—have continuing education schemes. In order to retain membership of varying colleges one has to have taken part in their schemes. But that is not subject to a statutory power. According to the Minister's minders, no Pharmacy Act in Australia yet stipulates mandatory education. The arrangement is that pharmacists must notify the pharmacy board what continuing education they have had in the year. A letter from the Minister for Health to Mr Benrimoj of the Pharmaceutical Society of Australia, New South Wales Branch, says in relation to the Victorian Act:

> It is clear from the wording of the Section that this provision does not give the Board the power to make continuing education a prerequisite for ongoing registration as a pharmacist in Victoria. I am also advised that officers of the Victorian Department of Human Services have confirmed this understanding of the legislation in discussions with officers of the NSW Department of Health.

That letter from the Minister to Mr Benrimoj goes on to discuss Acts operating in other States. Under the proposed Act the Pharmacy Board has the power to "make recommendations in relation to education courses which form part of the prerequisite for registration". The Victorian equivalent specifies that the Victorian board can "initiate, promote, support or participate in programs that the board considers will improve pharmacists' ability to practise as pharmacists". Although not definitive, that obviously is an encouragement in that direction.

The Australian pharmaceutical industry has a turnover of $7.8 billion, with imports costing $7.5 billion, which is something of a worry. According to *Medicines Australia*, Australian companies earned $2.9 billion in exports, with domestic research and development expenditure of $520 million per annum. The cost of prescription medicines to the Federal Government through the Pharmaceutical Benefits Scheme is around $4.9 billion per year, which represents less than $1 in every $10 spent by Australian governments on health care. So there is a lot of money to be made in pharmaceuticals. Major grocery chains are keen to spread their market dominance in pharmaceuticals. I think this bill is part of stopping that.

There is considerable concern about the pharmaceutical companies and their education of doctors. Some years ago when I was in practice in Burwood, a pharmaceutical company representative was telling me about the wonderful benefits of a new antibiotic of the quinalone class. He said that in fact up to a third of haemophilus influenza was resistant to the commonly used antibiotic, which was Amoxycillin. I said, "Do you have any evidence of that?" He gave me a paper from Manchester. I asked him, "What proportion of chest disease and chest problems in New South Wales is viral?" In other words, what proportion of those problems does not need an antibiotic at all? I asked, "Of the stuff that is bacterial, how much of it is haemophilus influenza? And, of the haemophilus influenza in New South Wales, how much is resistant to Amoxycillin?" He did not know the answer to any of those questions. He said he would get back to me, but years later I am still waiting.

The point is that this drug company representative had basically found a Manchester paper that was convenient to his argument, and assumed therefore that we in New South Wales should change our prescribing habits. Of course, after that marketing campaign, huge quantities of quinalones were used. They are monstrously more expensive than Amoxycillin. This was an antibiotic that probably should have been kept in reserve but was being marketed on frankly dodgy information. Of course, it is now developing its own resistances.

I think the development of antibiotic resistance is probably due to the poor use of antibiotics, encouraged by pharmaceutical companies that want to maximise their profits while their drugs are still in patent. The fact that this leads to the breeding of more germs that are resistant, so that companies must do more research to find more antibiotics, generating more costs, is by the way. What this boils down to is that we are not making intelligent use of the resources we have by using drugs cost effectively. That is why I think it is very important that doctors retain a healthy scepticism, and that pharmacists should do the same.

The amount of marketing of products that are not of any use at all is very high. Recently while in New Zealand I had a problem and went to a chemist. What the pharmacist would have been more than happy to sell me would have been absolutely useless. I do not normally visit a pharmacist, and he was not keen to give me the antibiotics that I thought I needed because I was not registered in New Zealand. But stories such as these say a lot about the need for restrictions on drugs, the need for pharmacists, and the danger of having drugs as just another commodity in supermarkets, enabling misconceptions to be deliberately engineered and causing huge amounts of money to be wasted. Yes, this could be said to be a matter of individual choice. But I believe uninformed choice is not really choice; it is just a con.

The Australian Democrats are concerned about legislation that will deliver market power to big supermarkets and put community-based pharmacies out of business. We believe the pharmacist-patient relationship is very important. Coles Myer attempted to acquire shares in a "grandfathered" corporate pharmacy. In March this year it purchased all the shares in Sydney Drug Stores, known as SDS, which trades as Pharmacy Direct. SDS was one of the grandfathered corporate pharmacy proprietors and is an interesting company for Coles Myer to have purchased. I received a personal letter from Coles Myer dated 31 March 2006, which of course said that the business it had purchased is not a pharmacy in a supermarket, and was not going to become one. The letter said also:

> We fully understand and accept the current regulations that do not allow pharmacies to operate within supermarkets.
>
> We have made this purchase because it is a successful business with a value and convenience offer complementary to our business model. It also enables us to develop a better understanding of the pharmacy business, within the existing rules.

So the company is hoping to get greater understanding, and perhaps expand later. To continue the quote:

> Pharmacy Direct has been operating since 1996 and has 100 employees. It is based at Silverwater in Sydney's west where it has a dispensary, retail pharmacy, a large warehouse and distribution centre. It trades on line at www.pharmacydirect.com.au. Prescriptions can only be filled in person or via mail. It also has a pharmacist advice hotline service.
>
> More than half of its 400,000 plus customers are from rural and regional areas who use the on-line, phone or fax ordering service.
>
> We look forward to continuing to offer competitively priced pharmaceuticals in a responsible manner to Pharmacy Direct's several hundred thousand customers located in all Australian states and territories.

It seems that Coles Myer is getting into the mailing business, which is obviously a possible growth area for cut-price pharmaceuticals that could provide a customer base with great potential for expansion. On 10 April my office contacted the Pharmacy Guild to seek its advice. The Pharmacy Guild was of the opinion that Myer could not proceed with the purchase because this would constitute a breach of section 25 of the Pharmacy Act. Interestingly, Myer announced the purchase on the Sydney Stock Exchange before it informed the Pharmacy Board.

The Government has moved amendments to the bill to specifically prohibit a pharmacy business from being co-located within a supermarket so the public can access it directly from within the supermarket. If these regulations work, certainly we will be happy with them. We share some of the concerns of the Pharmaceutical Society regarding the education of pharmacists. However, we believe the bill is a step in the right direction with respect to ongoing education, which is important for all professions. We also believe that respect for professional education is under threat from economic rationalists who simply look at the price of everything and do not understand the value of knowledge. However, that is another problem that cannot be entirely addressed by the bill.

The Hon. Dr PETER WONG [4.21 p.m.]: As a pharmacist I welcome the Pharmacy Practice Bill, which repeals the Pharmacy Act 1964. The bill allows for regulations to be introduced similar to those that apply to other health professionals, such as doctors and dentists. It provides for the registration of persons as pharmacists, and regulates the conduct of registered pharmacists, including disciplinary and complaint-handling structures as well as other administrative matters. Honourable members would well remember the push by Woolworths and others to enter the pharmaceutical market by deregulating local pharmacies. Supermarkets promised lower drug prices and better quality pharmaceutical services. Obviously, as implied by Reverend the Hon. Fred Nile, this would not be possible.

There was a statewide backlash against the push. Last year, after my presentation of 500,000 signatures, the idea was promptly dropped by both the Federal and State governments. Pharmacists are held in high esteem in the community and play a pivotal role in the health of our society. Above all else, they are health

professionals who counsel patients and answer questions about prescription drugs, including general questions regarding the proper use and adverse effects of prescribed medications, as well as providing other health advice.

Pharmacists have many areas of expertise; they are a critical source of medical knowledge in many areas. They also play an important role in advising professionals on the selection, dosage, interactions and side-effects of medication. While many pharmacists work in health care facilities, others are involved in research for pharmaceutical manufacturers, and in developing new drugs and therapies. The majority of pharmacists, however, are small-business owners; that is, they own the pharmacies in which they practise. It is this unique dichotomy that has been the subject of much debate within the profession. I believe that the bill will address many of these concerns. Even though many pharmacists own their small businesses, it should be noted that they are also very skilful and highly specialised people who have specific knowledge that makes them important to our society. I note that the Pharmacy Guild has been a strong advocate for pharmacy businesses to be owned and managed by professional and accountable pharmacists.

With advances in medical science and drug therapy, increased responsibility is being placed on pharmacists. They are more aware than others of the disastrous consequences that can arise from adverse reactions to individual drugs or drug combinations. As the Minister noted, pharmacists are a vital link in the chain of effective health care delivery, and our gatekeepers to public access to important drugs and medications. It is imperative that, in the interests of the safety of our community, pharmacies remain in the hands of qualified and accountable pharmacists who can ensure the proper and safe handling, and dispensing of medication. I note, as did many other honourable members, that the bill provides that only registered pharmacists, partnerships of registered pharmacists or corporations of registered pharmacists may hold a pecuniary interest in a pharmacy business. I note further that the bill prohibits a pharmacy business from being co-located within a supermarket so that the public can access it from within the supermarket. In my view that is a good provision.

The bill gives inspectors the power to enter premises for the purpose of carrying out an investigation to ascertain whether the provisions of the Act or regulations are being complied with or have been contravened, or to investigate a complaint made or intended to be made. However, the Legislation Review Committee notes that, given the limitations on entry powers and significant public interest in ensuring that pharmacists comply with the bill and that complaints against them are fully investigated, the committee does not consider that the powers of entry and inspection provided in the bill unduly trespass on personal rights and liberties.

While pharmacists are held in high esteem and are regarded with the utmost respect in our community, the public would expect that this trust is reciprocated by ensuring that pharmacists comply with the bill and that complaints against them are properly and fully investigated. On the whole the Pharmacy Practice Bill is an important step towards ensuring the health and safety of people attending a pharmacy, and in delivering professional and high-quality health care. It also ensures that pharmacies remain in the hands of professional and accountable pharmacists. I commend the bill to the House.

The Hon. JOHN HATZISTERGOS (Minister for Health) [4.27 p.m.], in reply: I thank honourable members for their contributions to the debate. Ms Sylvia Hale raised a number of issues that will no doubt be discussed in Committee in the context of an amendment that Reverend the Hon. Fred Nile proposes to move. Ms Sylvia Hale supported the views expressed by the Pharmaceutical Society of Australia in its treatment of continuing education, and argued that the bill is inconsistent with pharmacy registration legislation in Victoria, Tasmania and South Australia. The Pharmaceutical Society of Australia, Ms Sylvia Hale and others who support that view are incorrect. I have written to the President of the New South Wales branch of the Pharmaceutical Society about continuing education, and I have explained that the provisions of the bill do not establish a lower standard for pharmacists in New South Wales.

The shadow Minister for Health sought from my office a briefing on this matter and other aspects of the bill during its passage, and I was pleased to facilitate the provision of such a briefing. I note that yesterday in her remarks in the other place the shadow Minister indicated that the Opposition was not satisfied that the Pharmaceutical Society's claims were valid. Although other members did not seek a briefing from my office, I have circulated a copy of the letter I forwarded to the Pharmaceutical Society refuting the claims it has made. I have also provided to Ms Sylvia Hale a copy of that correspondence, from which the Hon. Dr Arthur Chesterfield-Evans quoted.

The primary rationale for introducing the bill is to update and improve systems for the registration and regulation of pharmacists. The bill provides a number of important mechanisms that are designed to ensure that pharmacists remain competent to practise. Similar mechanisms are found in other health profession registration

Acts, including the Medical Practice Act and the Dental Practice Act, and have been effectively utilised for a number of years.

The features of the bill that are designed to ensure the ongoing competence of pharmacists include a requirement that pharmacists notify the board annually of their continuing education activities. This mechanism will allow the board to track each pharmacist's involvement in continuing education activities, and when there are concerns about a practitioner's competence appropriate action will be able to be taken by reference to the legislation. This type of reporting system has been effectively utilised by other health professions for a number of years and has proved to be effective. Furthermore, as I have indicated, no Australian State or Territory currently has pharmacists' registration legislation that requires registered pharmacists to undertake continuing education activities as a precondition for ongoing registration. It has been suggested by some that somehow New South Wales is out of step with other Australian jurisdictions, but that is not the case. As the correspondence I have provided copies of indicates, no legislation in any other State mandates compulsory education.

Ms Sylvia Hale also raised the issue of access. She attempted to allege some form of conspiracy and suggested that I selectively provided access to individuals who wanted to see me in relation to this matter. I assure her that that is not the case. This matter has been around for some time. It has been the subject of extensive consultation since before I became the Minister for Health. I have met with each of the organisations involved—the Pharmacy Guild, the Pharmaceutical Society and the friendly societies. There has been correspondence in relation to issues on which they have sought clarification or about which they wished to address further arguments, and I have facilitated that interaction. Quite frankly, there has been fulsome and exhaustive discussion. I reject the insinuation in Ms Sylvia Hale's remarks that somehow a sinister process is under way. I reject also the unfortunate reflections implicit in her remarks about the Pharmacy Guild. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 6 agreed to.

Clauses 7 to 15 agreed to.

Reverend the Hon. FRED NILE [4.36 p.m.]: I move Christian Democratic Party amendment No. 1:

No. 1 Page 11. Insert after line 18:

17 Condition relating to continuing professional education

In addition to any condition of registration imposed in accordance with this Act, it is a condition of registration that the registered pharmacist concerned undertake any continuing professional education required by the board within the periods specified by the board.

As I indicated during the second reading debate, this amendment is part of a series of amendments that will give the board greater power to ensure that ongoing professional education will be undertaken by all pharmacists. I cite the example of the requirements relating to the legal profession. During the second reading debate on the Legal Profession Amendment Bill, the Government asserted that legal practitioners are required to undertake continuing education. It was stated during that debate on behalf of the Attorney General:

> … there is a risk that the public will not be protected from under-qualified persons undertaking legal work, however well intentioned they may be.

That extract expresses the desirability for legal practitioners to update their knowledge. However, I believe it would be far more critical for pharmacists to update their knowledge and skills because, as we know, the pharmaceutical industry is constantly advancing and new drugs are becoming available on an almost weekly basis. I commend the amendment to the Committee.

Ms SYLVIA HALE [4.38 p.m.]: I support the amendment and subsequent amendments to be moved by the Christian Democratic Party. Reverend the Hon. Fred Nile has made a point that I had intended to make.

I understand that in a former life the Minister for Health was a legal practitioner. I understand also that if he wishes to retain his registration as a legal practitioner, he will be obliged to undertake ongoing professional education. It could be said that because of the volume of legislative requirements emanating from the Federal level—I do not suggest that a great deal of legislation is passed by this House of Parliament—it is very important for legal practitioners to undertake ongoing professional education to remain up to date. After all, legal practitioners primarily deal with property rights and, in relation to the criminal law, issues affecting whether a person will be incarcerated.

The Hon. John Hatzistergos: Point of order: Madam Temporary Chairman, this bill is not about legal practitioners; it is about pharmacists. I ask you to direct Ms Sylvia Hale to address the substance of the amendment.

The TEMPORARY CHAIRMAN (The Hon. Kayee Griffin): Order! Ms Sylvia Hale should confine her comments to the substance of the amendment being debated.

Ms SYLVIA HALE: In areas where the prime concern is the protection of property rather than the protection of life, ongoing professional education is required. However, the pharmaceutical area deals with not only the protection of life but also the prevention of injury to individuals who take the wrong medication, or the wrong quantity of medication, or take their medication at the wrong time. Given the proliferation of drugs and the propensity of the pharmaceutical industry to push drugs—and the Hon. Dr Arthur Chesterfield-Evans gave examples of that—it is more important than ever that people who are responsible for dispensing drugs, giving advice and monitoring medications be required to update their qualifications.

Whether one can take or leave professional education is not a matter of whim; it is a matter that is vitally important to the wellbeing of a community. As the community ages and the reliance upon drugs increases, the requirement that ongoing professional education be a condition of registration is absolutely reasonable. As the amendment states, the Pharmacy Board will specify the continuing professional education. Presumably people with expertise in the area will establish and set out the sort of education that is expected to be undertaken. I cannot understand any reason for the Opposition or the Government opposing the amendments. If they do, I can only conclude that the people who had the major interest in ensuring that the education requirements are not put in place are the employers of pharmacists, because they do not wish to have to release their staff for ongoing education courses.

If one puts aside the interests of the employers and takes account of the interests of the community and the practitioners who will be held accountable for errors in prescribing, or for giving uninformed advice, it becomes essential that ongoing professional education be a requirement—indeed, a condition—of registration for pharmacists in this State.

The Hon. Dr PETER WONG [4.42 p.m.]: It is a good idea for all professions to have continuing education. However, a number of months ago I raised a question with the Pharmaceutical Society. The question was: If such a course were to be conducted, who would conduct it? I do not see the Medical Board conducting medical programs, and I do not see the Dental Board conducting dental programs. It is not the role of the Pharmacy Board to conduct education programs; that would be totally wrong. Perhaps the Pharmaceutical Society is a wonderful organisation, but in my almost 30 years as a pharmacist—and I still register as a pharmacist—I have received not one academic article from the society.

The Pharmacy Guild conducts seminars from time to time, mostly on business practices rather than intellectual or academic studies. The third proposal would be for the Faculty of Pharmacy of the University of Sydney, of which I am still a director of the Herbal Medicine Research and Education Centre, to conduct continuing education. At this stage there is no concept of conducting continuing education, but there may be in future. As much as it is a wonderful idea, it is not the board's role to do it. At present there seems to be a conflict between the different stakeholders within the pharmacy membership. I do not think we can solve the problem by agreeing with the amendment at this stage.

The Hon. JENNIFER GARDINER [4.44 p.m.]: Reverend the Hon. Fred Nile has moved the first of several amendments. It relates to the conditions regarding continuing professional education. I confirm that the Opposition will not support that amendment. To save time, I confirm that the Opposition will also not support the other two amendments. The Pharmacy Practice Bill provides the New South Wales Pharmacy Board with powers to ensure that pharmacists remain fit to practise and that they are professionally competent. The board can suspend a pharmacist's registration where that is required so as to protect the life or ill-health of any person.

The Minister has given an assurance that the board's power to monitor continuing education activities provides sufficient mechanism to address any concerns that some pharmacists may not be taking appropriate steps, or in the future will not take appropriate steps, to maintain their professional competence. I note, importantly, that that provision is consistent with other Acts that govern health professions in this State, including the Medical Practice Act, which, of course, governs the practices of doctors in New South Wales.

The Hon. JOHN HATZISTERGOS (Minister for Health) [4.46 p.m.]: I reiterate my comments in reply to the second reading debate. I add that if this proposal were to be adopted by Parliament that would place New South Wales out of step with all other jurisdictions. Indeed, it would render the pharmacy legislation out of line with other health registration Acts. Furthermore, the Pharmacy Board has advised me that whilst it is concerned that pharmacists maintain their competence to practise, it believes continuing education is only one part of maintaining competence. The board does not support making continuing education mandatory.

Reverend the Hon. FRED NILE [4.47 p.m.]: I wish to clarify a point made by the Hon. Dr Peter Wong. He questioned whether the Pharmacy Board is competent to conduct the courses. I asked that question when I met with the pharmacy body, and the point is taken up in my second amendment, that the board would initiate, promote and support programs but not run the courses itself. It would use other expert bodies that are conducting courses in various places. Perhaps some courses involving new drugs are conducted by the drug companies as well.

The Hon. Dr PETER WONG [4.47 p.m.]: Perhaps my statement was misunderstood. I was not questioning whether the Pharmacy Board is competent or otherwise to conduct the courses. I was saying, firstly, that that is not their role, and, secondly, that being the case the Pharmacy Board is quite different from many other professional boards such as the Dental Board and the Medical Board. I do not believe that the Medical Board conducts many seminars; different colleges, such as the Royal Australian College of General Practitioners and the Australian Medical Association, predominantly conduct them. I do not think it is the board's role to conduct academic studies courses.

Amendment negatived.

Clause 16 agreed to.

Clauses 17 to 19 agreed to.

Clauses 20 to 35 agreed to.

Clauses 36 to 75 agreed to.

Clauses 76 to 87 agreed to.

Clauses 88 to 97 agreed to.

Clause 98 agreed to.

Reverend the Hon. FRED NILE [4.50 p.m.]: I move Christian Democratic Party amendment No. 2:

No. 2 Page 52, clause 99 (2). Insert after line 21:

(g) to initiate, promote, support or participate in programs that the Board considers will improve pharmacists' ability to practise as pharmacists and pharmacy students' ability to undertake clinical training as part of their course of study or supervised training and to protect the public from those pharmacists or students and to provide funding for those programs from money available to the Board for that purpose,

All honourable members should support this standalone amendment. The Pharmacy Board wants this additional power. In the long term it will improve the ability of pharmacists to ensure greater health provision for the people of this State. There is nothing negative about providing the board with the ability to initiate, promote, support and participate in programs. That would be a valuable way of enhancing the quality of the pharmaceutical industry in this State.

Ms SYLVIA HALE [4.52 p.m.]: The Greens support this amendment, which I think enhances the description of the functions of the Pharmacy Board. By initiating, promoting, supporting or participating in programs the board will establish a climate in which pharmacists will be encouraged to improve their knowledge and keep it up to date. The purpose of the wording in the amendment moved by Reverend the Hon. Fred Nile is to improve the ability of pharmacists to practise as pharmacists and the ability of pharmacy students to undertake clinical training as part of their course or study, to protect the public from those pharmacists or students, and to provide funding for those programs from money available to the board for that purpose. The amendment is perfectly self-evident. For the life of me I cannot conceive of anyone opposing its inclusion in the principal functions of the board. As I said earlier, it establishes a climate that will encourage students and practising pharmacists to keep up to date. Of course, the ultimate beneficiaries of that will be the people of this State.

The Hon. JOHN HATZISTERGOS: [4.54 p.m.] The Government cannot support this amendment. The difference between the functions of the Pharmacy Board, as outlined in clause 99 of the Pharmacy Practice Bill, and those proposed in the amendment is that the board has been consulted in relation to its functions in the draft bill and it has not been consulted in relation to the functions proposed in the amendment. Furthermore, the board, which incidentally is self-funding in its operations, already has a range of powers encompassing the kinds of issues that the amendment seeks to address, so to that extent the amendment is unnecessary. Clause 99 (2) provides:

> (a) to promote and maintain the highest standards of professional conduct and ethics in the pharmacy profession,
>
> (b) to provide for education about pharmacy and for pharmaceutical research,
>
> (c) to consult with and to advise the appropriate authorities on standards of training for pharmacists …
>
> (h) to generally carry out all matters relating to the practice of pharmacy authorised or required by this Act.

Those provisions are already in the proposed legislation, on which, as I said, the board has been consulted and with which it concurs. No-one has been consulted about the specific wording in this proposed amendment. In any event, it is largely encompassed in what the Pharmacy Board has already agreed to do.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 7

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

Noes, 22

Ms Burnswoods	Mr Hatzistergos	Ms Sharpe
Mr Catanzariti	Mr Lynn	Mr Tsang
Mr Clarke	Mr Oldfield	Mr West
Mr Donnelly	Ms Parker	Dr Wong
Ms Fazio	Mrs Pavey	
Mrs Forsythe	Mr Pearce	*Tellers,*
Miss Gardiner	Ms Robertson	Mr Harwin
Mr Gay	Mr Ryan	Mr Primrose

Question resolved in the negative.

Amendment negatived.

Clause 99 agreed to.

Clauses 100 to 104 agreed to.

Clauses 105 to 108 agreed to.

Clauses 109 to 111 agreed to.

Clauses 112 to 129 agreed to.

Clauses 130 to 139 agreed to.

Clauses 140 to 158 agreed to.

The TEMPORARY CHAIRMAN (The Hon. Kayee Griffin): Order! Christian Democratic Party amendment No. 3 sought to amend schedule 1 but it cannot proceed because amendment No. 1 was lost.

Reverend the Hon. FRED NILE [5.04 p.m.]: The circulated Christian Democratic Party amendment No. 3 refers to a "section 17", which would have been inserted had our first amendment been agreed to. However, as the Committee did not accept that amendment, I cannot and do not proceed with our third amendment.

Schedules 1 to 8 agreed to.

Title agreed to.

Bill reported from Committee without amendment and passed through remaining stages.

FAIR TRADING AMENDMENT BILL

Second Reading

The Hon. JOHN HATZISTERGOS (Minister for Health) [5.08 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

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

Leave granted.

The bill I introduce today will make a number of amendments to the Fair Trading Act 1987 in order to improve the level of protection and information provided to New South Wales consumers, enable the Commissioner for Fair Trading to carry out her functions more effectively, and enhance the effectiveness and efficiency of Ministerial Advisory Councils.

The first amendment will extend the operation of the Fair Trading Act to conduct which occurs outside New South Wales but has a relevant link with New South Wales.

The amendment will bring the New South Wales Fair Trading Act into line with the Fair Trading Acts of the Australian Capital Territory, Queensland, South Australia, Tasmania, Victoria and Western Australia, all of which have provisions giving them operation outside of State or Territory borders if there is a sufficient link with the State or Territory.

Currently, the Office of Fair Trading relies on Part 1A of the Crimes Act to take action against conduct occurring outside New South Wales.

Part 1A provides that offences in New South Wales legislation apply extraterritorially if the offence is committed wholly or partly in New South Wales, or the offence is committed wholly outside New South Wales but has an effect in New South Wales.

Part 1A does not, however, extend the application of the misleading, deceptive and unconscionable conduct provisions of the Fair Trading Act, as these provisions do not create offences.

Nor does it extend the provisions allowing the Commissioner for Fair Trading to seek an injunction to restrain unlawful conduct.

The Office of Fair Trading therefore cannot take action against misleading or deceptive conduct that occurs outside New South Wales, or seek an injunction against other unlawful conduct occurring outside the State.

These restrictions are significant because a large proportion of the Office of Fair Trading's law enforcement activity uses the misleading and deceptive conduct and injunction provisions.

The injunction provisions are particularly useful because they prevent traders from continuing unlawful conduct and can provide for compensation for affected consumers. Breach of an injunction can lead to imprisonment for contempt of court. In contrast, a prosecution may result in a trader simply paying a fine and continuing with unlawful conduct.

The limited territorial reach of the misleading and deceptive conduct and injunction provisions also hinders the Office of Fair Trading's participation in coordinated law enforcement action with other States and Territories.

With the increase in the number of traders operating across Australia, a trader who is engaging in unlawful conduct is likely to be doing so in several jurisdictions at once. Rather than each State taking separate action against the conduct which occurs in their jurisdiction, it is much more efficient for a single action to be taken against the trader.

While the Australian Competition and Consumer Commission takes action against national conduct, not all cases receive priority.

The States and Territories have therefore been developing cooperative strategies to deal with these cases themselves. One such strategy is for one jurisdiction to take lead role in taking action against a trader and to seek orders which apply in all jurisdictions.

In one such case, a trader engaging in unlawful practices had an address in Sydney but traded in all States. In taking action against the trader, the New South Wales Office of Fair Trading sought to obtain an injunction with national application, but, as the Fair Trading Act was interpreted as only applying to New South Wales, the injunction granted was limited to New South Wales.

Proposed section SA will make it clear that the Fair Trading Act applies extraterritorially to the full extent of the Parliament's legislative power and that it extends to conduct either in or outside New South Wales that:

- is in connection with goods or services supplied in New South Wales, or
- affects a person in New South Wales, or
- results in loss or damage in New South Wales.

The second amendment will give the Commissioner for Fair Trading greater powers to obtain information, in order to effectively carry out her functions.

The functions of the Commissioner for Fair Trading are set out in section 9 of the Fair Trading Act and include:

- providing advice on consumer protection legislation;
- taking action to remedy breaches of consumer protection legislation;
- securing compliance with consumer protection legislation, whether on complaint or otherwise;
- making available information on matters affecting the interests of consumers;
- receiving complaints, investigating those complaints, and dealing with them in such manner as the Commissioner considers appropriate;
- keeping under critical examination, and reporting to the Minister on, the laws in force, and other matters, relating to the interests of consumers; and
- reporting to the Minister on matters relating to the interests of consumers that are referred to the Commissioner by the Minister.

To enable the Commissioner to carry out the function of taking action to remedy breaches of consumer protection legislation, the Fair Trading Act provides investigators appointed by the Commissioner with powers of entry, power of search and seizure under search warrant and power to obtain information, documents and evidence in relation to a possible contravention of any legislation administered by the Minister for Fair Trading.

The power to obtain information cannot be used in support of any of the other functions of the Commissioner. By contrast, the now repealed Consumer Protection Act 1969 allowed the Commissioner's delegate to require a person to provide information or documents which were believed on reasonable grounds to be relevant to the investigation of a complaint or an investigation into matters affecting the interests of consumers.

The proposed amendments to section 20 will permit the. Commissioner to exercise the power to obtain information, documents and evidence in relation to matters that are the subject of a complaint received under section 9, or matters that are the subject of investigations into the laws in force and other matters relating to the interests of consumers, carried out in accordance with section 9.

The amendment will increase the efficiency and effectiveness of the work of the Office of Fair Trading with respect to investigating and resolving complaints and disputes that do not involve breaches of legislation, monitoring compliance with legislation, investigating matters that affect the interests of consumers, conducting reviews of current legislation and assessing the impact of regulatory proposals.

The Bill provides that the Commissioner can only delegate these powers to an officer, defined by the Fair Trading Act to mean a public servant or person engaged by the Commissioner with the approval of the Minister.

The delegate must provide evidence of his or her identity and delegation if requested to do so by the person required to comply with the notice under section 20.

The Fair Trading Act establishes five statutory advisory bodies that provide policy advice to the Minister for Fair Trading with respect to key areas of her portfolio: fair trading generally, the motor trade, home building industry, property services industry and retirement villages industry.

In line with government policy, the Bill rationalises the number of statutory bodies in the Fair Trading portfolio.

The proposed amendments will retain three existing Advisory Councils, Fair Trading, Property Services and Retirement Villages, abolish the Council of the Motor Vehicle Repair Industry Authority and amalgamate that Council with the Motor Trade Advisory Council to form the Motor Vehicle Industry Advisory Council.

Membership numbers are also rationalised, with each advisory council to have not less than six and not more than sixteen members.

Once the Bill is enacted, amendments to the Home Building Act will commence to abolish the Home Building Advisory Council under the Fair Trading Act and create a new Council under the Home Building Act.

The practice of demanding payment for goods or services when the goods or services were not requested, or when the authority to supply the goods or services was obtained through fraudulent means, is referred to as false billing.

Most false billing complaints relate to demands for payment from small businesses for the provision of advertising services in directories, magazines, journals and similar publications.

False billing is a significant problem in New South Wales. Investigating and taking action against false Billers under the existing provisions of the Fair Trading Act requires considerable resources. The financial detriment suffered by small businesses stung by false billing is significant.
An internal report prepared by the Office of Fair Trading in May 2003 indicated that the Office had identified around 170 publication titles that were either known, or strongly suspected, to be linked to false billing activity. The Office obtained banking records for three false billing operators (either sole traders or family businesses) who published ten publications between them.

The combined annual income for the 2000—2001 financial year for these operators was estimated to be $2.367 million, or $236,000 per publication. If each of the 170 identified publications generated half this amount of income each year, this would amount to New South Wales small businesses being defrauded of $20 million each year through false billing.

In an attempt to reduce the level of false billing and make prosecution of false Billers easier, Queensland and Victoria have amended their Fair Trading Acts to include provisions additional to those applying in New South Wales.

Section 58 makes it an offence to assert a right to payment for unsolicited goods or services or making an entry in a directory unless there is reasonable cause to believe there is a right to payment or that the directory entry had been authorised.

The proposed amendment to section 58 provides that a person shall be taken to be demanding payment if they send an invoice or other document stating the amount of a payment or the price of goods or services, unless the document contains a prescribed statement at the top of the first page, in upper case and not less than 18 point font, which states "THIS IS NOT A BILL. YOU ARE NOT REQUIRED TO PAY ANY MONEY."

Queensland has a similar requirement.

The inclusion of such a clear and prominent statement is expected to reduce the likelihood that small businesses will inadvertently pay for unsolicited goods or services or unauthorised directory entries and therefore act as a disincentive to false Billers.

The requirement to include the statement will also facilitate the prosecution of false Billers who fail to comply, by making it easier to prove that the false biller demanded payment for unsolicited goods and services or unauthorised directory entries.

The introduction in New South Wales of the requirement, also under section 58, to have written authority for placing an entry in a directory dramatically reduced the level of false billing in relation to directories. However, this requirement did not apply to the publishing of advertisements and false billers have taken advantage of this regulatory gap.

In 2003, Victoria closed this gap by aligning the requirements for publishing an advertisement with those for placing an entry in a directory.

Proposed section 58A will harmonise with the Victorian provisions by providing that it is an offence to assert the right to payment for certain unauthorised advertisements. Proposed section 58A mirrors the provisions in section 58 with regard to directory entries, so that a person is prohibited from demanding payment for publication of an advertisement unless they have obtained written authority to publish.

Proposed section 58A contains the same exemptions as apply in Victoria. Large proprietary companies and their subsidiaries, listed corporations and their subsidiaries, publications which have an audited circulation of 10,000 copies or more per week, and their related bodies corporate, the Crown and other prescribed persons do not have to comply with proposed section 58A.

This will ensure that newspapers and other legitimate publications which carry large numbers of advertisements are not subject to time consuming written authority requirements.

Further amendments relate to the disposal of items seized or otherwise obtained by the Office of Fair Trading in the course of its work to protect consumers, encourage compliance with fair trading legislation and take action against unlawful conduct.

These items may be used for the purpose of investigations or as evidence in legal proceedings. They may have been seized under the Commissioner's seizure powers, or handed over voluntarily.

Once these items are no longer required as evidence, they are returned, if possible, to whomever had lawful possession of them. If it is not possible to return such items to the custody of any person, they are retained by the Office of Fair Trading. As there was no power to destroy or dispose of these items they could occupy considerable space, while serving no useful purpose.

Proposed section 19A provides for anything seized under the authority of a search warrant to be sold, destroyed or otherwise disposed of if it is not required as evidence and cannot be returned to someone who had lawful possession. The proceeds of any sale are to be paid to the Treasurer for payment into the Consolidated Fund.

Proposed section 93 contains the same provisions in respect to anything obtained in the course of an investigation (other than seized under a search warrant).

The Fair Trading Act is the principal statute that protects New South Wales consumers from deceptive and dishonest commercial conduct.

These amendments will enhance the work of the Commissioner and her staff and I commend them to the House.

The Hon. CHARLIE LYNN [5.08 p.m.]: The Fair Trading Amendment Bill amends the Fair Trading Act by extending the application of the Act to conduct that occurs outside New South Wales but which has a relevant link with New South Wales. The bill aims to control the practice of false billing and to prohibit a person from demanding payment for publishing an advertisement without written authority. There are certain exemptions relating to newspapers and other legitimate publications that carry a large number of advertisements. The amendment to section 58 of the Act provides that a person shall be taken to be demanding payment for unsolicited goods and services or charging for making an entry in a directory unless the document contains the prescribed statement, "THIS IS NOT A BILL. YOU ARE NOT REQUIRED TO PAY MONEY". The Commissioner for Fair Trading will be given additional powers to obtain information and documents that are believed to be relevant to an investigation or other matters concerning the interests of consumers.

The Commissioner for Fair Trading will be able to order the sale, destruction or disposal of items in the possession of the commissioner that were obtained under a search warrant, that are no longer needed and that cannot be returned to the custody of any person. The bill will rationalise membership of the advisory council to the Minister for Fair Trading to consist of not less than six, but not more than 16, and not less than five, but not more than 15. Finally, the bill will change the name of the Motor Trade Advisory Council to the Motor Traders Advisory Council.

The Opposition does not oppose the bill. However, it has grave concerns about the Commissioner for Fair Trading being given additional powers to obtain information and documents that are believed to be relevant to an investigation or other matters concerning the interests of consumers. I am concerned about the provisions of proposed section 20 (1) (c), which provides that the director general may investigate a matter that is the subject of complaint received under section 9 (1) (c) or may refer the matter to a public authority or other body the director general considers best able to take action or provide advice in relation to the complaint. Section 9 (2) of the Act provides:

(2) The Director-General shall:

(a) keep under critical examination, and from time to time report to the Minister on, the laws in force, and other matters, relating to the interests of consumers, and

(b) report to the Minister on matters relating to the interests of consumers that are referred to the director general by the Minister and, for those purposes, may conduct research and make investigations.

The powers under section 20 are quite significant and the proposals in the bill will enhance those powers. I am concerned that the functions of the director general, particularly as set out in section 9 (2) (b), could lead to the use of coercive powers in certain instances. There does not appear to be any restraint other than that the powers

can only be issued and used by the director general or his or her delegate. There have been examples of zealous inspectors operating under the powers currently available to them, a couple of which I will expand on. I do not want inspectors and employees of the department assuming bovver-boy tactics in regard to these traders.

The examples I will bring to the notice of the House will send a shiver up the spine of real estate agents, in particular, in New South Wales. The shadow Minister, the honourable member for Myall Lakes, spoke in the Legislative Assembly and referred to an incident in 2004, which occurred at approximately the same time as another matter about which I will advise the House. In 2004 the shadow Minister made representations to the then Minister for Fair Trading, the Hon. Reba Meagher, about a real estate agent in his electorate whom he did not name but who unwittingly was drawn into a dispute. The real estate agent, his late father and another person were involved in a real estate transaction. The other person felt aggrieved and made a complaint to the Office of Fair Trading. The department contacted this constituent, who then travelled to the Newcastle office to assist the department in its inquiries. He supplied full copies of sales files and all other necessary information to a departmental officer. The officer said that if he needed further information, he would contact the constituent and make mutual arrangements in that regard.

Three weeks later two other departmental officers arrived unannounced at the constituent's real estate office. Only one officer identified himself by business card. At the time the constituent was not in the office. However, his wife was present, as were a number of clients of the firm, including two tenants of properties administered by the business. The shadow Minister pointed out that the office is in a small country town where everybody knows each other's business. In front of the clients and the tenants, and without asking for the name or job description of his constituent's wife, the two officers read from a schedule and demanded documents. The constituent's wife, who was acutely embarrassed because of the presence of clients and the personal nature of the matter, asked the officers to write down their requirements. She said that she or her husband would attend to the inquiry and the officers could return later and collect the documents. The officers acted in a demanding, demeaning and unsatisfactory manner. In a letter to the shadow Minister the constituent wrote:

> What I find insulting is that unsubstantiated allegations were canvassed publicly in a small country office.

The town has a population of only 1,100. The letter continued:

> The conduct of the investigators from the Department of Fair Trading is completely unwarranted considering I have fulfilled all requests of the office.

That case study is relevant to the concerns of the shadow Minister about the amendments in the bill. The shadow Minister had received assurances from the Minister's office that the provisions will be carefully monitored, and it is hoped that such a situation does not recur. The shadow Minister referred also to the case of a leading auctioneer who had 30 to 40 years experience in the business, had an unblemished record and had lectured on auctioneering, and who was required to undertake a bridging course of a couple hours duration. He had been exempted from the accreditation course. He understood that on completion of the bridging course he would be able to conduct auctions.

It is our view that he should have been able to conduct auctions anyway. The paperwork from the department was not processed in the required time. He conducted an auction and was found to have technically breached the Act. This matter is still before the court so I cannot say much more about it, but this person was treated in the same manner as those in the first incident I related—the heavy hand of the department came down on him and officers turned up at his office at odd hours making demands. Such conduct by the department is not conducive to fair practice. "Fair trade" means fair trade between consumer and trader, a principle that is not operating in the department at the moment.

A couple of years ago I brought the attention of the House to one of the greatest miscarriages of justice I had ever come across—and I came across it purely by accident. I had purchased my house through a highly respected and trusted real estate agent in Camden. In a passing conversation with him in the street I asked him how he was going. He told me that things were not too good, and he relayed to me his story. I conducted some further investigations with him and on a number of occasions brought the matter to the notice of this House to try to save this man's business and reputation. I was counter attacked by the Australian Labor Party, which called on me to apologise. But I stuck with the case, and when it eventually went to court the matters brought against this man were thrown out.

I tried to raise an important matter in an estimates hearing recently but Opposition members were gagged and our time for questioning expired, so I could not pursue it. The matter relates to that part of this bill

that seeks to give to the commissioner extra powers to obtain information and documents that are believed to be relevant to an investigation or other matters. In November 2000 Katrina Swann, who was then Katrina Cameron, resigned as licensee in charge of Camden Property Marketing Pty Limited, trading as L. J. Hooker Camden. This was not known at the time to John Leach. Katrina Swann notified the licensing branch of the Department of Fair Trading accordingly on 4 December 2000—a matter also not known to John Leach—and she moved to work at a different agency in the Picton area. As at and from the time of Katrina Swann's resignation no licensee was in charge of the business Camden Property Marketing Pty Limited at any time. This was not known to John Leach either. On 30 March 2001, unbeknown to John Leach, the corporation licence of Camden Property Marketing Pty Limited expired and was never renewed. Alexander Cameron, the proprietor, however, continued to operate the unlicensed agency business of Camden Property Marketing Pty Limited, which was still carrying on business under the name L. J. Hooker Camden.

The following month, on 30 April 2001, John Leach wrote to the Department of Fair Trading as to his proposed appointment as licensee in charge of the business of Modena Investments after Brendan Powers told Mr Leach, "I have fixed up for Modena Investments to take over as L. J. Hooker Camden with John McTavish of L. J. Hooker and we have just done all the paperwork." On 11 May 2001, after Mr Powers told John Leach he had not completed the corporation licence application after all, John Leach and Alex Cameron completed the application for a corporate licence by Modena Investments. The application was signed by John Leach and sent to the Department of Fair Trading Licensing Branch, where it was received on 14 May 2001.

On 13 June 2001 a new corporation licence was issued by the Department of Fair Trading to Modena Investments and was received in the post some days later. Due to the delay in the corporation licence being issued by the Department of Fair Trading, it was decided by Mr Powers and Mr Leach that Modena Investments would not begin to carry on business until after 1 July 2001—that is, the start of the next financial year. On 25 June 2001 John Leach departed Australia for holidays in Thailand with his partner, Cynthia Nicholson.

On 1 July 2001 Modena Investments commenced its business at the Camden office, where Camden Property Marketing has continued to operate. However, Modena Investments was only engaged in the sale of properties on behalf of its own vendor clients, and not in property management on behalf of landlords, and not in sales where Camden Property Marketing had previously been appointed before 1 July 2001 as selling agent by vendor clients. At the same time Mr Alex Cameron continued to operate the unlicensed company Camden Property Marketing Pty Ltd out of the same office as Modena Investments.

Camden Property Marketing was engaged in property management work, and Mr Cameron remained in charge of the Camden Property Marketing rent roll. Camden Property Marketing continued to conduct those sales in which it had been previously appointed as the selling agent prior to 1 July 2001. Brendan Powers instructed Alex Cameron to arrange for the sale of the Camden Property Marketing rent roll to other real estate agents so that the sale price for the Camden Property Marketing rent roll could be paid to Mr Powers to reduce the capital sums that Powers had advanced to Camden Property Marketing over preceding months. Powers, who was also a director of Camden Property Marketing, also instructed John Leach that Cameron would attend to the sale of the rent roll on behalf of Camden Property Marketing.

After his holiday concluded, on 12 July 2001 John Leach returned to work—now as the licensee in charge of the business of Modena Investments. On 29 July 2001 Mr Cameron resigned in writing from his position as a salesman—a position in which he had been briefly employed by Modena Investments—with immediate effect; that is, on 29 July 2001. Mr Leach had therefore effectively only supervised Cameron's work as a salesman for just 18 days since 12 July 2001. Mr Leach accepted Mr Cameron's written resignation. From 29 July Mr Cameron was only working at the office to finalise the sale of the Camden Property Marketing rent roll for Camden Property Marketing in accordance with Brendan Powers' previous instructions.

On 9 August 2001 Jacqueline Kelly of the Department of Fair Trading Real Estate Investigations Branch called at the L. J. Hooker Camden office and interviewed Mr Cameron about Camden Property Marketing's failure to lodge any audit report for the year ended 30 June 2000. This report should have been lodged with the Department of Fair Trading by 30 September 2000, and was by then 10 months overdue. Cameron claimed that the trust records were with his accountant, Mr Edwards, and that the audit "should be completed within the next two to three weeks". Cameron said he would contact Kelly upon completion of the audit. This audit report was never lodged with the Department of Fair Trading.

On the same day, 9 August, Jacqueline Kelly, in the course of her call at the L. J. Hooker Camden office, as well as interviewing Mr Cameron regarding Camden Property Marketing's audit report, also spoke to John Leach about Modena Investments trust account records, which were produced to her by Mr Leach. Ms Kelly inspected all records of Modena Investments for about 20 minutes and told Mr Leach that those trust records were in order. The remainder of Ms Kelly's time at the office was spent in discussions with Cameron,

but not in John Leach's presence or hearing. No further wages were paid by Modena Investments to Cameron after 10 August, although his wages had been paid since 29 July and up to 10 August, but only at Mr Powers' direction.

On Thursday 6 September 2001, after becoming aware of telephone calls from some unpaid Camden Property Marketing landlords on Monday 3 September, John Leach told Michelle Cameron of L. J. Hooker NSW Limited in a phone call that it would be advisable for L. J. Hooker to investigate Camden Property Marketing's agency business. On Friday 7 September Sonia Rahme of CBS Business Services carried out an inspection of the trust account books and records of Modena Investments at the request of L. J. Hooker NSW Limited. She found Modena Investments trust accounts in order, but her attempts to inspect the books of Camden Property Marketing were frustrated as Cameron failed to produce any trust account records for her inspection.

On the afternoon of 7 September 2001 John Leach called at Westpac Camden branch and was advised by James Dickinson that an alleged "investment receipt" of a sales deposit provided by Cameron was not issued by Westpac, that no such moneys were held by Westpac and that the bank officer's signature on the "receipt" was a forgery. That evening John Leach phoned Sonia Rahme to advise her of this important development.

On the same day he learned for the first time from Eddie Dekleva of Vivah Pty Ltd, who was a prospective purchaser of property, that Cameron had failed to refund a $92,000 deposit to Dekleva, those being funds paid to Cameron on about 2 August 2001 for which a Camden Property Marketing receipt had been issued to Dekleva by Cameron. This was the first that Mr Leach had heard of this transaction. Leach immediately gave directions to staff to hold all Camden Property Marketing rental moneys collected at the office as Mr Leach concluded that to deposit those trust funds to any Camden Property Marketing account was now plainly inadvisable.

Over that weekend, 8 and 9 September 2001, Mr Leach confronted Cameron, who said he would make good all the Camden Property Marketing moneys on Monday 10 September 2001. An urgent meeting convened by John Leach was held between Leach, Cameron, Brendan Powers and John McTavish of L. J. Hooker NSW Limited in their Camden office, and at that meeting Cameron repeated his promises to all present to make good all missing moneys by Monday 10 September.

On Monday 10 September Cameron attended the Camden office of Modena Investments until about 10.00 a.m. However, no restitution was made for missing moneys by Cameron, who left the office and was not seen again by Mr Leach. John Leach then interviewed Eddie Dekleva, Dekleva's partner and Mr Edwards regarding the cheque for $92,000 on which Mr Edwards had stopped payment after inspecting Cameron's "88 Oxford" nightclub over the weekend. John Leach also had an urgent meeting at the office with Detective Sergeant Thomas of Camden police and gave him the false Westpac "investment record". By now the staff were receiving numerous calls from angry unpaid landlords.

This was a day of very great personal pressure for John Leach and also for all of the office staff. They found out about it on the Friday; they had meetings over the weekend; the restitution that Cameron had said he would make, he failed to make; on 10 September he met with the people who were now missing $92,000; and on the Tuesday morning, the very next morning, Cameron failed to arrive at the office. On that morning John Leach immediately made a telephone call to Henry Ngui of the Department of Fair Trading Real Estate Investigations Branch and reported those recent untoward developments about Cameron and the missing Camden Property Marketing trust moneys. That afternoon the Department of Fair Trading investigation commenced. At about 1.30 p.m. two investigators, Laughton and Stanley, called on John Leach at L. J. Hooker in Camden and Modena Investments Pty Limited to commence negotiations with the former Camden Property Marketing Pty Limited landlords who were prepared to sign new agency agreements, appointing Modena Investments in place of Camden Property Marketing as their managing agents.

I note that the first receipt of rentals deposited to Modena Investments property management trust account commenced late on the afternoon of 11 September 2001 as directed by Robert Laughton, the Department of Fair Trading inspector. Modena Investments did exactly what he asked it to do. No rental collections had been deposited since July 2001 because during that period all property management was conducted by Alex Cameron and Camden Property Marketing, not by Modena Investments. About 17 September 2001 the L. J. Hooker franchise through Modena Investments was terminated, and Modena Investments ceased to trade as L. J. Hooker Camden. After that time Modena Investments commenced to carry on business under the name and style of Camelot Real Estate.

Modena Investments now engaged not only in the sale of properties for its vendor principles but also in property management on behalf of landlords. Some, but not all, Camden Property Marketing landlords signed new agency agreements with Modena. Other landlords took their management to other agents, due to Cameron's defalcations. About 40 former clients of Camden Property Marketing lodged compensation claims with the Department of Fair Trading.

The following month, November, I had a chance meeting with John Leach, who advised me of what had happened. I raised the matter in this House and called on the Minister for Fair Trading, who allegedly reviewed an investigation by the department into the alleged misappropriation of funds by John Leach of Camelot Real Estate. Rather than start to investigate Alex Cameron, a known conman who had absconded with, as it turned out, around $200,000, the department chased the bloke who exposed it and reported it. I could not work it out. As I said, I knew John Leach. I purchased my home in Camden from him. We lived just around the corner from him in Camden. I trained at the Camden gym with him. We dined together with our wives. I had the highest regard and respect for him. He was highly regarded.

I was advised by Mr Leach that he had never provided any notice, either in writing or otherwise, to the department's licensing branch requesting that his name be recorded as the licensee in charge of any office conducted by Camden Property Marketing; nor had he authorised any person to give such advice to the Department of Fair Trading's Licensing Branch so that it could be noted that he was the licensee in charge of any office of Camden Property Marketing.

As I explained earlier, on 1 July he took over his business. Despite those facts, which are a matter of record, Tony Stanley from the Department of Fair Trading's Real Estate Investigations Branch confidently asserted that Mr Leach was the licensee of Camden Property Marketing. The Australian Securities and Investments Commission records support the fact that Mr Leach was not associated with Camden Property Marketing. I brought that fact to the attention of the House. I said I had been advised that some time after assuming the position of licensee in charge of Modena Investments trading as L. J. Hooker Camden on 1 July, Mr Leach discovered the untoward activities.

Previously Mr Leach had been employed by Camden Property Marketing, but he was now employed by Modena Investments. He went through the process of reporting it to the police and to the Department of Fair Trading. As a direct result of Mr Leach's appropriate and prompt reporting of these irregularities, police investigations were now well in progress, and on 4 December 2001 I said that it should lead to an early arrest. Everybody in Camden, except the Camden police, knew where Mr Cameron was.

I stated to the House that this was a sad and unfortunate incident that had lead to severe financial loss by some clients of Camden Property Marketing, and also much unnecessary stress to Mr Leach and his family, who had been subject to unfair strain through aggressive, half-cocked investigative actions and implied threats by the Department of Fair Trading. That is why we are concerned about this part of the bill. The implied threat to Mr Leach's legal authority to be a licensee was contained in a heavy-handed letter from the Department of Fair Trading, which stated:

> The material obtained by the Department indicates that you may be in contravention of the above sections. Consequently, you are invited to participate in a formal record of interview to respond to allegations that you have contravened the requirements of these provisions. Generally it is the Department's policy to audio tape formal interviews. Prior to the commencement of the interview you will be formally cautioned that you are not obliged to answer any of the questions but anything you say will be recorded and may be used in evidence against you.

The letter further advised:

> You may, if you wish, be accompanied by a solicitor at the interview at your own expense.

At that time I said that Mr Leach had already paid about $5,000 to employ a solicitor to keep the Department of Fair Trading dogs at bay. He would not have had to go to that expense, nor would he have had to suffer such a degree of stress, if the department had simply looked at the Australian Securities and Investments Commission records, which is what we wanted it to do and which is what his solicitor wanted it to do, but the department would not look at them.

I said I felt that a staff member who was alleged to have misappropriated the funds needed help quickly, and that even then he continued to present cheques that could not be honoured and was, therefore,

causing a great deal of grief to the victims and to those who knew him. I called on the Minister for Police to ensure that Camden detectives expedited their investigations so that the staff member could be called to account for his actions and proper counselling arranged for him, which would allow Mr Leach to get on with his business free of the stress of that unfortunate incident.

I would have thought that a member of Parliament bringing that to the notice of the Minister and the House would have ensured some positive action, that some alarm bells would have rung, and that the department would have investigated the records to determine the facts. However, on 8 January 2002 Mr Leach was interviewed under section 20 of the Fair Trading Act by Mr Tony Stanley and Mr Stephen Robinson at the office of the Department of Fair Trading. The interview took about two or three hours.

I saw Mr Leach the night before the interview and the morning before the interview. He was severely stressed about it. I am talking about an honest man. The very next day the director general suspended his licence and deemed him to be not a fit and proper person to practise in the industry. I presume that on 8 January, after the two-hour to three-hour interview, the director general replayed tapes, assessed the evidence, tested the evidence, checked any discrepancies with Mr Leach and then incredibly, at eight o'clock the next morning—I assume they worked all night because Mr Leach did not receive a call that night—rang Mr Leach and suspended his licence. Mr Leach then received a letter, which stated:

> You are the holder of a real estate agent and restricted stock and station agent licence number 289494 issued under section 23(8) of the Property, Stock and Business Agents Act 1941.
>
> Attached is a Notice of Suspension of your licence, pursuant to section 64A(2) of the Fair Trading Act 1987. Section 64A(6) of the Fair Trading Act provides that a second or subsequent notice may be served upon the licence holder. The attached Notice takes effect immediately and your licence will be suspended for a period of sixty (60) days.
>
> You should also be aware that section 64A(8) provides that a licensee who is the subject of a suspension order may apply to the Administrative Decisions Tribunal for a review of a decision by the Director-General under section 64A(2).

The notice recorded that he was the holder of a real estate agent and restricted stock and station agent licence. It went on to say:

> Pursuant to section 64A(2) of the Fair Trading Act, I am of the opinion that there are reasonable grounds for believing that:
>
> (a) you have engaged in conduct that constitutes grounds for cancellation of a licence under s29 of the Property, Stock and Business Agents Act 1941; and
>
> (b) it is likely that you will continue to engage in that conduct; and
>
> (c) there is a danger that a person or persons may suffer significant harm, or significant loss or damage, as a result of that conduct unless action is taken urgently.

How a director general could arrive at that conclusion, after very narrow investigations and a two-hour interview, and without testing the evidence, is beyond me. Section A of schedule A accompanying the notice states:

> … the conduct set out below is such that it is grounds for cancellation of the licence under the Property Stock and Business Agents Act … the legislation under which the licence was granted.

The schedule goes on to state in Section B:

> " … the licensee is not a fit and proper person to continue to hold the licence …
>
> (c) that the licensee has been guilty—

I emphasise the term "guilty"—

> of such conduct as renders him or her unfit to continue any longer to hold a licence or that the affairs of the corporation have been so conducted as to render it unfit to continue any longer to hold a licence …

It then goes on to state:

> The conduct of John Henry Leach that falls within the prescribed grounds for cancellation of his licence under section 29(1) (b), and (c) of the Act is:
>
> > [that he] … is the holder of licence number 289494, for the classes of real estate agent and restricted stock and station agent, issued under section 23(8) of the Act. This licence is due to expire on 11 January 2005.

That was four years hence. The notice goes on to state:

> Prior to his employment with Modena Investments Pty Ltd … John Henry Leach was employed at Camden Property Marketing Pty Limited ("Camden P/L") as a real estate agent from 23 June 2000.
>
> In a letter of 30 April 2001, John Henry Leach advised the Department of Fair Trading … that as of 1 May 2001 he was taking over as licensee-in-charge of L J Hooker—Camden and that from that date, the business … would be taken over by Modena P/L.
>
> Business Names search shows that Camden P/L traded under the name of L J Hooker-Camden from 23 February 1999 to 6 May 2001 and that Modena P/L commenced trading under … L J Hooker … from 7 May 2001.
>
> John Henry Leach acted as licensee-in-charge of corporations conducting real estate business without the required corporation licence from 1 May 2001 to 13 June 2001 as:
>
> > … the corporation licence of Camden P/L was neither renewed nor restored after it expired on 30 March 2001; and
> >
> > the corporation licence of Modena P/L was not issued until 13 June 2001.
>
> Modena P/L was the holder of corporation licence number 1112635 which was first issued on 13 June 2001, and expired on 12 June 2002.
>
> John Henry Leach is one of the two (2) directors of Modena P/L, and was the licensee-in-charge since the inception of its business. Leach advised the Department of Fair Trading that he resigned as a director of Modena P/L on 18 January 2002. An ASIC search on 26 June 2002 reveals that Leach is still listed as a director of Modena P/L.

Mr Leach told them that. The schedule also states:

> Alexander Douglas Cameron was the previous Secretary of Modena P/L, and previously held two fully paid shares in the company. He was employed as a real estate salesperson by Camden P/L and subsequently, by Modena P/L until he abandoned his employment on 11 September 2001.
> On 12 September 2001, the Department of Fair Trading received two complaints regarding misappropriation of moneys from the trust accounts of Camden P/L.

The department certainly did. It received the complaints from Mr John Leach. The schedule also states:

> As a result of these complaints, on 12 September 2001, Departmental investigators met with John Henry Leach at the principal place of business of Modena P/L at … Camden … [Mr] Leach advised that Alexander Douglas Cameron had not returned to the office on or about 11 September 2001; that Mr Cameron had misappropriated trust moneys totalling between $100,000 and $200,000; that Mr Cameron had taken the trust account records of Camden P/L and had deleted the hard drive records of the office computer; and Mr Leach had reported the matter to the Police.

Of course Mr Leach did. He admitted that. The schedule also states:

> John … Leach provided incomplete books and records of Camden P/L to the departmental investigators for the period leading up to 12 September 2001. The records received from the licensee are incomplete such that Departmental officers have been unable to fully reconstruct the trust accounts of Camden P/L.

That is not true, either. The schedule also states:

> The investigations of Departmental officers revealed various irregularities in the conduct of the affairs of Camden P/L and Modena P/L as set out in the following paragraphs.
>
> Inquiries have revealed that Mr Cameron issued receipts in the name of Modena P/L for rental moneys and deposits from prospective purchasers from 4 December 2000 to 11 September 2001. However, these moneys were deposited in the trust accounts of Camden P/L.
>
> John … Leach allowed the trust accounts of Camden P/L to operate even after Alexander Douglas Cameron abandoned the business on or about 11 September 2001, as receipts continued to be issued in the name of Modena P/L, whilst these moneys were deposited in the accounts of Camden P/L.
>
> There are apparent deficiencies in the trust accounts of Camden P/L and Modena P/L. As of 28 June 2002, the Department's Property Services Compensation Fund … has received claims from thirty eight (38) principals in the total amount of $219,819.93.
>
> John … Leach has failed to keep adequate trust account records of Modena P/L and Camden P/L in accordance with the Act and the Property, Stock and Business Agents (General) Regulation 1993 … The records available for these two (2) agencies are incomplete and in disarray.

> The details of the conduct set out in paragraphs 3 through 16 above show that John Henry Leach is not a fit and proper person to continue any longer to hold a licence within the meaning of section 29(1)(b) of the Act.
>
> The details of the conduct set out in paragraphs 3 through 16 above show that John Henry Leach is not a fit and proper person to be a director of a corporation holding a licence within the meaning of section 29(1)(b1) of the Act.
>
> The details of the conduct set out in paragraphs 3 through 16 above show that John Henry Leach has been guilty of such conduct as renders him unfit to be the holder of a licence within the meaning of section 29(1)(c) of the Act.
>
> The details of the conduct set out in paragraphs 3 through 16 above show that John Henry Leach has been guilty of conduct that renders him unfit to be a director of a corporation holding a licence within the meaning of section 29(1)(d) of the Act.

Section B of the schedule states:

> B. It is likely that within the provisions of section 64A(2)(b) of the Fair Trading Act, the Licensee will continue to engage in the above conduct for the reasons set out below.
>
> As indicated in paragraph 5 above, John Henry Leach acted as licensee-in-charge of corporations conducting real estate business without the required corporation licence from 1 May 2001 to 13 June 2001.

Of course he did, and he wrote to the Department of Fair Trading to inform the department of that. The schedule also states:

> As licensee-in-charge, John Henry Leach has been the person responsible for, and primarily involved in the, receiving and disbursement of trust moneys received by Modena P/L, and the maintenance and control of its trust accounts, including monthly reconciliation of such accounts.
>
> Departmental inquiries disclose that John Henry Leach failed to conduct the business of the agency and, in particular, the care and maintenance of the trust accounts, in accordance with provisions of the Act and Regulations.
> John Henry Leach has allowed the issue of receipts in the name of Modena P/L for trust moneys, which were in turn deposited in the accounts of Camden P/L. This conduct continued even after Mr Cameron left the business on 11 September 2001.
>
> As indicated in paragraph 15 above, there are apparent deficiencies in the trust accounts of Modena P/L. As of 28 June 2002, the Fund has received claims from thirty eight (38) principals in the total amount of $219,819.93.
>
> In view of the particulars 1 to 5 above, I am of the view that John Henry Leach will continue to engage in the conduct.
>
> C. Within the provisions of section 64A(2)(c) of the Fair Trading Act there is a danger that persons may suffer significant harm or significant loss because of the above conduct and for the reasons set out below urgent action is required.
>
> As of 28 June 2002, thirty eight (38) claims totalling $219,819.93 have been made on the Fund in view of the failure of Camden P/L to account to trust account creditors for moneys received from property managements, and sale of properties.
>
> The trust account records of Camden P/L and Modena P/L have not been kept in accordance with the Act and the Regulation, and have been in disarray
>
> In view of the failure of John Henry Leach to keep proper account records for Camden P/L and Modena P/L, it is difficult to reconstruct these agencies' trust accounts.

I ask honourable members to bear in mind that not long before this notice was sent, Mr Leach had two auditors, one from L. J. Hooker and one from the Department of Fair Trading, state that the accounts were okay. The schedule also states:

> Departmental officers are currently examining the records and it is likely that more deficiencies in the trust account will come to light, and further claims will be made of the fund.

It sure was likely, because Alexander Cameron had done a runner with $219,000. The schedule also states:

> I am of the view that the conduct is likely to continue and that as long as he is a current holder of a licence, John Henry Leach could cause significant harm to persons. John Henry Leach could offer his services to another agency. Considering the scope of the conduct set out above, it is a matter of urgency that his licence be suspended.

The director general is not happy to simply close down his office and put his employees out of work—but he is not even to practise in the industry. John Henry Leach went home that night. I saw him, and he has no business, no income and has four-pages of bureaucratic diatribe from the Department of Fair Trading telling him that he can no longer trade. It is my belief, as I have stated many times, that the decision to close down John Leach's business and destroy his career in the real estate industry was taken prior to the interview—which I will prove

later in my contribution—and that the necessary paperwork had been prepared prior to that interview. That constitutes corrupt practice. On 13 March 2002 I again raised the issue of corruption in the process of an investigation conducted by the Department of Fair Trading. I gave some background, and outlined the process Mr Leach went through immediately he discovered the discrepancy. At that time I said:

> It is interesting to note that Mr Leach's books were audited by the Department of Fair Trading in August last year [2001] and found to be in order. It is also interesting that his licences as a real estate agent and stock and station agent were renewed by the department without objection in late December 2001 to expire on 11 January 2005—

that was after the audit—

> On Tuesday 8 January 2002 Mr Leach attended the offices of the Department of Fair Trading—accompanied by his solicitor—and was interviewed by the departmental officers involved in the investigation under the provisions of the Fair Trading Act.
>
> Incredibly, the very next day the director general of the department, Mr David O'Connor, signed a notice of suspension of Mr Leach's licence. In the notice Mr O'Connor declared that Mr Leach was no longer a fit and proper person to hold licences under the Property, Stock and Business Agents Act. Mr Leach was given no warning or notice of this suspension and was given no opportunity to make a submission to the department opposing the submission before it was issued. As a result of this arbitrary notice, Mr Leach had to immediately close his business and lay off his employees.

From that time he was no longer employed, he had no income, and he was prohibited to work in his chosen profession. At that stage he was unable to clear his good name and reputation, because the Department of Fair Trading would not file a complaint under section 29 in the Licensing Court of New South Wales. That is a very important part of the case. Under the Fair Trading Amendment Bill, we are talking about giving the Commissioner for Fair Trading extra powers. On 13 March 2002 I said in this House:

> If there is sufficient evidence to issue a notice of suspension based on grounds of alleged unfitness, there should be no delay whatsoever in the department filing a complaint and summons under section 29 in the New South Wales Licensing Court. If, on the other hand, there is still insufficient evidence, or the six months investigation is allegedly "still in progress", it is manifestly unfair for any notice of suspension to ever have been issued.
> The situation as of today [13 March 2002] is that the alleged criminal is still walking the streets six months after he allegedly committed this serious fraud; the person who took all the proper steps to report and rectify the situation as soon as he discovered the anomaly and a well-respected businessman in the local Camden community has been treated as a criminal and has had his hard-earned business reputation destroyed. He is personally devastated and is virtually confined to his house with nothing to do but ponder over the injustice of the system.
>
> I believe that any system in which a faceless bureaucrat can destroy an innocent citizen's business and personal reputation without any recourse to the legal courts of the State is frightening. And when Ministers abandon their responsibilities to ensure honest citizens are given a fair go before the courts, we are drifting into dangerous political waters. I therefore call on the Minister for Fair Trading to instruct his director general to immediately lift the suspension notice he has issued to Mr Leach and to further instruct him to refer the case to the Licensing Court of New South Wales for determination by a magistrate.

That was important, because it tells us who is running this State. Generally Ministers for Fair Trading are junior Ministers—basically, Ministers on training wheels. None of them have achieved a Master of Business Administration; they have never run a business before. Usually they are political hacks who have risen through a union-type system to sit behind a big, oak-panelled desk in the department. The matter involving Mr Leach is a classic *Yes, Minister* approach to running the State.

Ministers do not know the details; they are snowballed by the director general, who tells them what they have to sign, where there have to sign, when they have to sign, and what official functions they have to attend, and when. I say that because no action was taken. I also called on the Minister for Police to instruct the Camden detectives to immediately interview Mr Leach over the matter and to take immediate action to apprehend Mr Cameron, who was still walking the streets of Camden, with a view to having him charged before a court for the fraudulent misappropriation of trust account moneys. I advised the House:

> Mr Leach deserves a fair go. He deserves to have his day in court to clear his name. And the Minister for Fair Trading deserves to be condemned for allowing this disgraceful situation to occur in what is supposed to be a fair and democratic State with proper legal processes and conventions to protect ordinary citizens from such appalling bureaucratic vilification.

Nothing happened! The matter could have ended at that point with the Department of Fair Trading having claimed Mr Leach's scalp and Mr Leach effectively ruined had it not been for the intervention of a solicitor, Mr Peter Richardson. I spoke to Peter Richardson, because John Leach had no money. Peter Richardson said to me, "I will represent him." He had worked with the Department of Fair Trading for 30-odd years. He said, "This is the worst miscarriage of justice I have every come across in my legal career."

Mr Richardson told John Leach and me that he would represent John Leach and would worry about the costs at the end of the case. He was absolutely confident that when they had their day in court the case against Mr Leach would be dismissed. It is interesting that Alex Cameron, the bloke who stole more than $200,000, was not even interviewed by police during this entire saga—that is, between 2001 and 2004. He was not even interviewed by police, although everyone in Camden knew that Cameron had taken the money, that Cameron was a crook and a con man. The police just could not find him. I spoke again in the House on 19 March 2002, just a few days later, because I was concerned for Mr Leach. I advised that I was of the strong view that the investigative process followed by the Department of Fair Trading had been corrupted. I said:

> The 60-day suspension of Mr Leach expired yesterday [18 March 2002] and he was greatly relieved that he had not received any further notice from the department.

We thought the department would get on and do what we had asked it to do. That morning, before I came into the House, John Leach called me and advised that three real estate agencies had offered him a job and that he was looking forward to getting his life back together after that nightmare experience. However, at 5.30 p.m. that day he rang to advise me that the department had planned to suspend his licence for a further 60 days.

On 27 February I wrote to the Minister for Fair Trading. On 7 March I received a response from the Minister's private secretary stating that the matters that had been raised were being examined and that the Minister would be touch with me shortly. I have received nothing since. On 27 February I wrote to the Minister for Police requesting that he direct the Camden detectives to expedite their investigations into the issue so the person who was alleged to have misappropriated the money could be brought to justice. I have not received any acknowledgment of that letter.

Six months after the fraud was reported, the person who was alleged to have misappropriated the funds was still walking the streets, and the Department of Fair Trading was treating as a criminal the person who detected and reported the misappropriation, which is an injustice. I wrote to the Ombudsman, who washed his hands of the issue. I have since written to the Independent Commission Against Corruption asking it to investigate the allegation that the process had been corrupted.

Recently I learned that Robert Lawton, the senior investigator for the Department of Fair Trading who conducted the initial investigation against Mr Leach, has since been removed from his job because he was caught out lying to his superiors just before Christmas. I suggested to the Minister that he might like to have a crack at checking the veracity of that information if he ever gets around to looking at the issue. I have much more information to disclose in relation to this matter.

Debate adjourned on motion by the Hon. Charlie Lynn.

ADJOURNMENT

The Hon. HENRY TSANG (Parliamentary Secretary) [6.01 p.m.]: I move:

> That this House do now adjourn.

SEX OFFENDERS REGISTER

The Hon. CATHERINE CUSACK [6.01 p.m.]: Honourable members would be aware that the Liberal-Nationals Coalition announced a series of policies that would ensure communities were notified of high-risk child sex offenders moving into their area. Under our plan, parents would be empowered with vital information to protect their children. Tonight I want to focus on the issue of establishing and maintaining a register of child sex offenders because police Minister Carl Scully has grossly misrepresented the issue in California. In an article in the *Sydney Morning Herald* last Monday it was uncritically reported:

> ... Mr Scully warned that the US approach of naming and publicising the whereabouts of child sex offenders would drive them underground.
>
> In California, which has a broad definition of sex offender, there's 56 per cent compliance with the requirement to be registered.

Unfortunately Mr Scully is a person who will say anything and do anything to spin an issue. California has had a sex offenders registry since 1947, well before the 1998 Federal Megan's law introduced by President Clinton. In

September 2003 the Californian Bureau of Audit released a report. I believe that that is the so-called research that is being cited by Mr Scully. The report found that 23,000 offenders who should have been on the register were not listed at all. The report states:

> Unfortunately, the Megan's Law database contains thousands of errors and inconsistencies as well as out-of-date information; therefore, the public is not accurately informed about many known sex offenders. For example, at least 482 records incorrectly indicate that the offenders are incarcerated. Also, 51 juvenile sex offenders who were committed to the Department of Youth Authority ... have never been included in the Megan's Law database ... Other serious and high-risk offenders are not in the public database because Justice needs to do further research to learn the details of their crimes ... For a sample of these records, Justice took an average of 13 months to correct the offence codes.
>
> ... the database contains more than 400 duplicate records ... One city's police department created 89 duplicate records due to a misunderstanding of how to update existing records ... Also, the Megan's Law database shows many sex offenders as living in public communities when they are actually incarcerated; we found 1,142 records that indicate the offenders were released although the Department of Corrections reports them as being incarcerated.

There is an old saying that if a bureaucrat fell out of bed it would take him two weeks to hit the floor. Constructing and operating a sex offenders registry across agencies, in particular, given the large number of offenders they are looking at in California—around 80,000—is a major bureaucratic endeavour. That is why in 2003, with the state of technology and changes to the law, the California registry was out of date. It was not, as Carl Scully said, because paedophiles had gone underground; it was because it was underresourced and underdeveloped, staff were poorly trained, and there had been a lack of follow-up by police in enforcing the register. As a result of the audit report and Megan's law, the compliance rate for California improved dramatically. This is not only about watching the paedophiles; it is also about keeping government accountable. San Francisco police reported:

> Since the database has been available, the public has helped law enforcement identify offenders who are not registered with the correct address. Thanks to toughened California laws requiring annual registration, and making it a felony in some cases not to do so, it is estimated that the majority of California's registered sex offenders are in compliance with the registration compliance. This is a dramatic turnaround from a few years ago when a smaller percentage of the offenders in the state were thought to be properly registered.

The New South Wales sex offenders register should also be an important tool for managing behaviour and preventing reoffending by paedophiles. In May 2005 the Ombudsman produced a statutory report, which was to be tabled by the Minister as soon as practicable. The Minister exploited those words "as soon as practicable", because he did not table the report at all. On 26 October last year we learned via ABC radio:

> A report on the effectiveness of the Child Protection Register will not be tabled in State Parliament until next year ... New South Wales Ombudsman Bruce Barbour says he has made recommendations on the ways the register can be improved in a report to the Police Minister Carl Scully. He has called on Mr Scully to table the report in Parliament as soon as possible.
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> "There needs to be better co-ordination of police command as to how they're using the register", he said. "There needs to be better risk assessment and tools used to ensure that those who propose or generate the highest risk are dealt with more appropriately than those that don't generate the high risk." A spokesman for the Police Minister says the register is currently under review and a ministerial report, as well as the Ombudsman's report, will be tabled in the next session of Parliament.

On 16 November 2005 I moved a motion in this House calling for papers. The Government caved in, and suddenly all the reports, including five others in this category, were found and tabled. Of course, there was no ministerial report, as foreshadowed by Mr Scully's press secretary; that was just another Labor lie. This issue shows once again why secrecy mixed with Labor governments is a recipe for mismanagement and cover up. When it comes to our children's safety I advise everybody against blind acceptance of anything that police Minister Carl Scully has to say.

NATIONAL THREATENED SPECIES DAY

Mr IAN COHEN [6.06 p.m.]: Tonight I wish to speak about threatened species as tomorrow is National Threatened Species Day. The occasion is held on 7 September each year to encourage the community to help conserve Australia's unique native fauna and flora. It was first held in 1996 to commemorate the death in 1936 of the last Tasmanian tiger in captivity. I wonder whether honourable members remember seeing pictures of a pathetic creature behind bars pacing up and down on a cement floor. That was the end of a magnificent apex predator species.

According to the Department of Environment and Conservation, more than 80 species of native plants and animals have recently become extinct in New South Wales, and around 1,000 more are threatened with extinction. New South Wales has one of highest records of mammalian species extinction in the world. When I

mentioned this issue at a forum, one expert questioned me and said, "New South Wales might have some stiff competition from Western Australia", which is a tragedy for Australia and for the world. In Australia the number of bird and animal species listed as extinct, endangered or vulnerable rose by 41 per cent in the 10 years to last year. These are hardly figures to be proud of.

Today's news announced that the world could reach a climate tipping point in just 10 years, after which global warming advances rapidly and irreversibly. The International Union for the Conservation of Nature [IUCN] expects climate change to become one of the main threats to biodiversity. It is already threatening species everywhere, with polar bears now threatened by drowning and starvation because of melting summer ice in the Arctic. Mountain pygmy possums provide another example, as illustrated in today's *Sydney Morning Herald*. In winter pigmy possums live in the relatively warm pocket of air created between the ground and the snow-covered gorse and heath of Kosciuszko National Park. Global warming means that snowfalls are declining and therefore will not be there to protect possums, which are left exposed to the wind and rain. They are likely to be a casualty of climate change before long.

The latest IUCN report on threatened species identified on its red list 639 species in Australia, up from 621 in its previous report, including 65 as critically endangered. The report also clearly highlighted the growing threat to our oceans. It showed that marine species are as much at risk of extinction as their land-based counterparts. Urgent action is required to greatly improve management practices and implement conservation measures. World shark populations are facing severe threats, with many shark and ray species being added to the critically endangered list. This is a matter of particular concern to Australia's northern shark fisheries, where illegal fishing for shark fin is putting huge pressure on shark populations.

In New South Wales action could be taken immediately by creating adequate sanctuary zones for threatened species such as the grey nurse shark, as well as replacing shark meshing with newer technologies that do not kill endangered marine life. The New South Wales Department of Environment and Conservation draft threatened species priority action statement has been on display since May. But it appears that far too little funding has been allocated to help recover the 1,000 threatened species, populations and communities that are listed. Further, the statement shows that only 124 recovery plans are being prepared, instead of the 900 or so that are needed. Threatened species in urban and coastal areas are under ever-increasing pressure from spreading development. Threatened species in New South Wales are not evenly distributed. Most of them occur in the north-east and in the Sydney Basin, which are the areas of greatest development.

The New South Wales Government is caving in to developer pressure, and this gives our precious flora and fauna little hope for the future. Biodiversity is something that cannot be recreated. Attempts to recreate ecological communities throughout the world have, by and large, been unsuccessful. This includes attempts to recreate Cumberland Woodland, in the Sydney Basin. Moves by the Government to facilitate the trading off of areas of high conservation value could sound the death knell for our threatened species in areas that are under pressure from development. The most important point to note is that once a species is gone, it is gone forever. That sounds like an obvious statement, yet it is not heeded by many in this House.

Threatened species are not replaceable. Biodiversity is declining at a time when we are learning that there are more and more species we do not even know about. So, apart from the species we know we are destroying, countless others are probably disappearing without our knowledge. I offer my condolences to the family of the flamboyant conservationist Steve Irwin, whose efforts have alerted many to conservation issues—particularly children, who would be unlikely to take an interest in a more scientific approach to such matters. His legacy will be well remembered. His efforts in purchasing land through his foundation to protect ecosystems were extremely worthwhile.

SIXTEENTH INTERNATIONAL AIDS CONFERENCE

KINGS CROSS MEDICALLY SUPERVISED INJECTING ROOM

AIDS COUNCIL OF NEW SOUTH WALES TWENTY-FIRST ANNIVERSARY

The Hon. PENNY SHARPE [6.11 p.m.]: Bipartisanship is vital in tackling the HIV-AIDS epidemic. The parliamentary recess coincided with the Sixteenth International AIDS Conference in Toronto. The conference examined the impact of a global epidemic that over 25 years has infected 70 million people worldwide and claimed 30 million lives. Australia has lost 6,500 people, 3,600 of them in New South Wales. During the recess I had the opportunity to visit the Kings Cross medically supervised injecting centre and to

attend a function commemorating the twenty-first anniversary of the AIDS Council of New South Wales, which is better known as ACON.

Both of these visits reminded me that effective responses to public health issues such as HIV-AIDS must be built on four basic foundations. First, we must take an evidence-based approach to every part of the response—research, education, prevention and treatment. Secondly, there must be partnerships with the community, including with individuals directly affected by the disease and their organisations. The response must also be shaped by people's known behaviour, rather than on the idealisation of how individuals could, should or must behave. The last foundation is the political willingness to put in place initiatives that will prevent, contain and combat the disease. This willingness must be found not just by one government but by all governments, and not just by one political party but by all political parties.

Faced by increasing rates of HIV infection around the world, the Toronto AIDS conference endorsed this approach. The response endorsed in Toronto is what New South Wales and other governments have been doing for 20 years. The development of the HIV-AIDS epidemic in Australia has been different from what has occurred in other countries. In Australia, HIV-AIDS has been largely contained within specific population groups, particularly men who have sex with men, injecting drug users, haemophiliacs, and others who received HIV-infected blood prior to the introduction of testing and screening. The major reason for the lower rates of HIV infection were the policies that were devised in partnership with communities and then adopted, by and large, in a bipartisan manner. These included peer-based education; harm minimisation for injecting drug users, including needle exchanges and the expansion of methadone maintenance programs; access to free and anonymous HIV testing; and a significant focus on research.

In 2006 we cannot afford to become complacent. HIV infection rates are rising in our region. Countries such as Cambodia, Thailand, Burma, Indonesia and Papua New Guinea have increasing infection rates. Injecting drug users are at high risk from blood-borne diseases such as HIV. They also constitute one of the most marginalised groups in our society. It is estimated that the HIV rate amongst injecting drug users in Australia is approximately 1.3 per cent. By way of comparison, the HIV rate in Indonesia is estimated to be anywhere between 15 per cent and 40 per cent.

The medically supervised injecting centre in Sydney has been operating for five years. The centre has saved lives, and acts as a gateway to other services and treatment for injecting drug users. To the end of April this year, the centre has registered 8,912 injecting drug users, treated 1,752 overdoses, and referred 5,380 to services, including 2,360 into drug treatment. When I visited the centre I was informed that two-thirds of its clients do not access any other health service. Two-thirds equates to thousands of people who are at risk of becoming infected with HIV and other blood-borne diseases and thousands of people for whom the centre is the only health service they access. The centre plays an important role in saving lives immediately, but in concert with other initiatives such as needle exchanges it has an important role in HIV prevention.

I recently attended a function held by the AIDS Council of New South Wales to celebrate 21 years since its establishment. On the night people reflected on the thousands of lives lost and the fact that they were involved in an organisation that they desperately wished did not have to exist. In 1985 the gay, lesbian, bisexual and transgender communities and other supporters banded together to build a strong and dedicated community organisation that was prepared to fight the crisis unfolding around them. Twenty-one years on and 3,600 deaths and thousands of lives saved later, the organisation has grown and changed in line with the changing needs of the communities affected by AIDS. ACON takes an holistic approach to building programs that inform and educate, but it also recognises the complexities of people's lives. ACON's approach is based in the root causes of health problems, particularly discrimination. I congratulate ACON on 21 years of hard work.

I again highlight the importance of political bipartisanship in the fight against HIV-AIDS. We must put lives before politics. It is easy to exploit fear, ignorance and prejudice for political gain but it can be hard to argue for public health initiatives, such as needle exchanges, injecting centres and easy access to condoms. The bipartisanship that began in 1985 seems to be on shakier ground in 2006. Some 25 years into an epidemic for which we are yet to find a vaccine or cure, that bipartisanship must endure in order to save lives.

BATTLE OF LONG TAN FORTIETH ANNIVERSARY

The Hon. CHARLIE LYNN [6.16 p.m.]: On the fortieth anniversary commemoration of the battle of Long Tan I congratulate the Prime Minister on issuing an apology on behalf of the Australian people for the way Vietnam veterans were treated by radicals upon their arrival home. The battle of Long Tan was fought on 18

August 1966. On that day a major North Vietnamese Army force was preparing to attack the Australian task force base at Nui Dat. Had the North Vietnamese been successful—and they came very close—it would have been a major military and political disaster for Australia. The subsequent battle fought by Delta Company of the 6th Royal Australian Regiment has been acknowledged as one of the finest company defensive battles of any war. Delta Company comprised 108 fighting men, who were confronted by 2,500 main force and North Vietnamese Army regular troops. It was an absolutely epic battle. It was described by former Corporal Ross Smith, who said:

> As the assault went forward into the Long Tan rubber plantation we came across small pockets of enemy to our immediate front and flanks. Monsoonal rain made it extremely difficult to identify friend or foe. The ground shook—artillery pounded the area and small arms cracked all around, and I was wondering if I would see my 22nd birthday in Australia. Ground and trees seemed to be pulled towards the blackened sky, followed by thunderous roars—the artillery was doing its job, protecting Delta Company and killing enemy soldiers! Red, green, yellow and white tracer from machine guns thumped the sides of our armoured personnel carrier. Each of my men had eyeballs like proverbial "dog nuts." Even my Aboriginal Section 2IC, LCpl Cliff Bond, looked pale!
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> We quickly dismounted and shook into all round protection. One of my rifleman soldiers, Bob Halverson, ran directly into a rubber tree and bounced off it. As we edged forward towards D Coy artillery, visibility was poor due to fading light and monsoon rain. My scout group, Ray Showman and Tony Graham, screamed out "enemy front" as we all hit the muddy ground. For some uncanny reason I ordered my section to hold fire. This character was sitting in a shell crater dressed in what appeared to be American uniform, wearing an American baseball style cap and carrying an American M14 rifle. The muddy figure threw up his arms in surrender and yelled: "I'm a Yank, I'm a Yank." I immediately took his weapon, unloaded it and replaced the loaded magazine back into the M14 and told him to stay behind me during our advance.
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> Upon arriving at D Coy, 3 Platoon linked up with 2 Platoon and pushed forward, going into all round protection and commencing to dig in. Alternately my soldiers would take up fire positions and watch their front from possible enemy counter attack while others dug a shell scrape. D Coy loaded on to APCs and was moved to the outer edge of the Long Tan rubber plantation for redeployment and casualty evacuation.
>
> Thunder, lightning and rain continued and by now it was real dark. Screams of agony and pain were all around us and we knew some Delta Company soldiers were missing.
> Were they enemy or friendly sounds of suffering coming from the black of the night? These sounds got the better of me and I headed to Platoon HQ with my Machine Gun No 1, Peter Bennett. The Platoon Commander, 2Lt Bob "Daffy" Toyer, did not want us to go out in the black of night to locate our dead and wounded, but we disobeyed and crawled forward, with compass in one hand and a weapon in the other, and our map pockets filled with spare ammunition. I left my section commanded by Cliff Bond, and Peter traded his M60 for … SLR.
> We moved towards the screams of agony and then stopped and called out: "Anyone form Sydney? Who won the 1965 rugby league grand final? Anyone play AFL, who's Ned Kelly", and so on. The suffering sounds stopped for a moment and we moved on towards other moans of pain. Time and again we repeated this tactic and the sounds of agony would stop again. In an opportune flash of lightning we saw movement to our immediate front. Another flash of lightning and the enemy were confirmed as still on the battlefield. Peter's shaking hand grabbed my leg. He whispered: "Did you see that?" I raised myself into the kneeling position, aiming into the pitch black and quickly took a compass bearing. "When I start shooting, you run in that the direction," I told him. I withheld my fire as we withdrew, to tell Bob Toyer what we had done and seen. It is amazing how the adrenaline makes one thirsty—I think I drank half a canteen of water in one gulp. The screams of agony and pain still surrounded our company position—were they friends or foe?

He then described the final part of the battle and moving back to cover his positions. He said:

> On the afternoon of August 18, as we returned to our battalion base, we could hear the 1 ATF [task force] concert party of Col Joye and Little Pattie, but also the creeping crescendo of small arms fire in the direction of Long Tan. To this day I do not know whether we had crawled in the right direction or not, but at least we had tried to locate our wounded or dead mates of Delta Company. The smell of death and the sounds of the dying still reverberate inside my head.
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> Lest We Forget! Never!

PUBLIC HEALTH

The Hon. DAVID OLDFIELD [6.21 p.m.]: Our modem society is embracing the view that chronic diseases are a considerable threat to national health. Through their lifestyles, many Australians are a menace not only to themselves but to the overall health budget, and hence the needs of those who are ill through no fault of their own. Too many health dollars are being expended to address aspects of poor health that are mostly preventable. Perhaps the most obvious is, of course, smoking. It comes as no surprise to any of us here that some 20,000 Australians die each year from smoking-related illnesses. What is surprising is that apparently mature adults keep smoking and youngsters still take up the habit.

Smoking has not a single redeeming feature: it is not cool, it is not attractive, it is dirty, it makes one smell, and if it does not directly contribute to an early death it will certainly contribute to making one terribly sick along the way. The current anti-smoking campaign is appropriately graphic and its parts aimed at children are especially welcomed. I have been a smoker—the first time when I was in my teens until I was 20, and the

second time from 40 until I was 43. I know how hard it is to stop smoking; I have done it twice. On both occasions I went completely cold turkey—I went from being a smoker one minute to being a non-smoker the next. Despite my success with willpower, even I find it inconceivable that I started smoking again after not having had a cigarette in 20 years. So I fully appreciate why others have so much trouble quitting.

What is difficult to appreciate, however, is how many Australians seem to have adopted the notion that they are somehow able to get away with smoking or that they will just simply give up later in life or when they get sick. This attitude, combined with that of those who take no serious consideration of their diet and level of exercise, takes up valuable resources that would be more fairly spent on people suffering medical conditions not of their own making. We are all familiar with the saying, "God takes care of those who take care of themselves." But, unfortunately, it is the case that our health system is expected to take care of people who make little or no effort to contribute to their own good health.

There is far too much expectation that government-operated health services will always jump to the rescue of the irresponsible, ongoing crimes people commit against their very own bodies. This situation cannot continue indefinitely. Somewhere down the line the camel's back will break and those in a poor state of health as a consequence of their own actions will be ostracised. In select cases this is already happening. For example, there are surgeons who choose not to operate on smokers because of the smoker's reduced recuperative powers. In the United States of America people have been denied organ transplants because their abusive lifestyles meant such procedures were considered a waste of valuable limited resources. A person's own wellbeing and quality of life should be enough incentive to compel them to take on healthy practices. We have tended to accept excuses for those who, in essence, have little respect for their own bodies, whereas we should be less accepting and more critical.

Australians are not as healthy as they once were, and this is perhaps most evident with children. We blame fast food; we blame advertising; we blame peer pressure. But we always stop short of where the blame really lies, and that is with the choices people make. Recently there has been some turnaround in these issues and even calls upon parents to be more responsible with what they are feeding their children. But given the levels of obesity in young Australians, such calls need to be more strident. We need to continue, and indeed increase, education aimed at convincing people to be responsible with regard to their own health. Even appealing to people's vanity should be considered perfectly acceptable in the fight for a healthy population, and certainly I intend to make a contribution to that fight.

AUSTRALIAN COUNCIL FOR THE PROMOTION OF PEACEFUL REUNIFICATION OF CHINA EYES OF TIBET PROGRAM

The Hon. CHRISTINE ROBERTSON [6.25 p.m.]: I was privileged to recently attend the Australian Council for the Promotion of Peaceful Reunification of China's [ACPPRC] Eyes on Tibet fundraising gala dinner, where I learned about the outstanding work that this group does in helping those who need help most. The main hosts were Dr William Chui and Dr Ven Tan, who were responsible for organising the dinner and played a major part in the organisation and fundraising for the program. Several of my colleagues from both this House and the other were there to support the program. The group runs charitable missions to China, where it aids poor people who are blinded by cataracts. The first trip was held in 2003, and they have occurred annually since then, attracting support from a range of Australian and Chinese officials, including former Premier Bob Carr.

These missions are the result of many people contributing lots of work to make them happen. ACPPRC officials, including Van Tan, Patricia Quah, Rosita Ang and many others, donate large amounts of their time to cover the large amount of background work that is needed. Every year an area of need in China is identified and targeted for the mission. Dr Ven Tan visits the area prior to the mission to talk to officials and to ascertain what the conditions of the facility to be used are, as well as what equipment and personnel are available for the visit. As honourable members are probably aware, trips like this not only require contributions from volunteers but also have a large financial cost. Fundraisers such as the one I attended raise funds used to buy medical equipment, intraocular lenses, and other surgical disposables that will be required for the trip.

The amount raised also determines the number of cataracts to be targeted and the number of people who will be required to support this endeavour. Equipment and disposables required for the operations are either borrowed or donated from both local and overseas hospitals and health care companies, whose generosity is vital to the project. This equipment often means that the medical and support personnel travelling to China have

luggage many kilograms overweight. The airline companies often add their own contribution to the mission through their helpfulness in assisting with the transport of the equipment. One of the ophthalmic surgeons involved in this project, Dr Lisa Cottee, said:

> At the first stop in China, the Australian contingent meets the rest of the medical team who is sourced from both Taiwan and China, and often travel straight to the hospital. There is often apprehension about the state of the hospital or medical facility being offered. On one mission to Tibet, this was a hospital shell composed of empty rooms, with no equipment in it. The other two trips have used an operating theatre complex, but they have only been the most basic facilities that need to be set up for their appropriate uses: theatre, anaesthetic bay and the sterilizing unit.

A multitude of patients requiring surgery come to the facility and wait outside—those blinded by cataracts, together with their relatives, and even occasionally the parents of children with cataracts, all waiting to be seen and have their sight restored. These are people of extreme poverty, many in the colourful garb of their minority group, and occasionally amongst them children blinded by congenital cataracts. Of this last group, those above the age of five can have the surgery performed under a local anaesthetic. Those younger than five are sent to a larger regional hospital for their sight restoring operation, as there is too high a risk with the equipment used in the missions.

The first evening of the mission is usually spent setting up equipment for the next day's operating session. This can take anything up to six hours. The next four to five days are usually a plethora of work—pre-operative assessment, anaesthetic block for the operation, the surgery, and post-operative examination the next day. The wards are full, with patients scattered around the various rooms on beds, or on mattresses on the floor, together with their carers—all hopeful that the operation will be a success. It is fantastic to see the joy of the first look on the patient's face as the eye pad is removed. Some can stand unbelievingly, as they see their own hand for the first time in many years, possibly decades. Others look amazed to see a loved one's face after many years of blindness. The outpatient clinic seems to always bulge with patients waiting for assessment for theatre time. Even on the final day, we have patients keen to have the operation. Unfortunately, on several occasions we have not been able to do this because the disposable equipment has run out and there is nothing we can offer them.

On two trips, locally based ophthalmic surgeons have been present, and knowledge and encouragement is given to these wonderful people. Often the local ophthalmic surgeons are excellent in what they do, but they are markedly handicapped by a lack of equipment. The legacy of our trips, often greater than the number of patients whose sight has been restored by our team, is leaving behind knowledge, both clinical and operative, as well as much-needed operating equipment, including microscopes and ophthalmic instruments. In that way, the work of relieving the blindness of cataracts can continue by the local surgeons when we leave.

The aim of the trip is to restore sight to those who are less fortunate than us, those whose blindness worsens the already crippling poverty in which they live. This is brought about by the generosity of many people and companies. It also raises their awareness of mutual respect and the determination of those companies involved. I congratulate the doctors, nurses, technicians, organisers and the Australian Chinese Community on their excellent work on this voluntary program.

JAMES JOHNSTON "JIMMY" SHAW AND SCHOOL COMMUNITY GARDENS

Ms LEE RHIANNON [6.29 p.m.]: I wish to acknowledge and thank Jimmy Shaw for his work in promoting community gardens at public schools. Jimmy's 80 years have been alive with music and activism, and consideration for the needs of others. Today Jimmy is busy instilling in young people knowledge of how to grow their own food. Jimmy first initiated this program in 2002 at Ryde Public School. Purely out of community spirit, and a desire to share his knowledge with the youth of today, Jimmy, with the aid of eager students, established a community garden. The garden includes fruit trees, vegetables, herbs, compost heaps, worm farms—and, of course, a scarecrow.

Many students live in high-rise accommodation, and without Jimmy's efforts would never be able to work in a garden and grow vegies. This has not only resulted in practical knowledge for these children but has

enhanced a sense of community. The program has now spread to Melrose Park primary school and is being considered by many other schools, including Gladesville, West Ryde and Ermington public schools. Jimmy Shaw is an outstanding local citizen and an example to all. His accomplishments provide proof that community spirit is still alive, and demonstrates what we can achieve through working together. Well done, Jimmy.

[*Time for debate expired.*]

Motion agreed to.

The House adjourned at 6.31 p.m. until Thursday 7 September 2006 at 11.00 a.m.