LEGISLATIVE COUNCIL

Thursday 26 October 2006

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

The Clerk of the Parliaments offered the Prayers.

NATIONAL PARK ESTATE (LOWER HUNTER REGION RESERVATIONS) BILL

SYDNEY WATER CATCHMENT MANAGEMENT AMENDMENT (WARRAGAMBA) BILL

Bills received.

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

Motion by the Hon. Tony Kelly agreed to:

That the 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.

OFFICE OF THE INSPECTOR OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The President tabled**,** pursuant to the Independent Commission Against Corruption Act 1988, a report entitled "Annual Report 2005-2006".

Ordered to be printed.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The President tabled**,** pursuant to the Independent Commission Against Corruption Act 1988, a report entitled "Investigation into the Sale of Surplus Public Housing Properties", dated October 2006.

Ordered to be printed.

HUNTER AND OUTER SUBURBAN RAILCARS

Production of Documents: Order

Motion by the Hon. Greg Pearce agreed to:

That the resolution of the House of 18 October 2006 relating to an order for papers regarding Hunter Rail cars be amended by omitting "14 days" and inserting instead "21 days".

SELECT COMMITTEE ON THE CONTINUED PUBLIC OWNERSHIP OF SNOWY HYDRO LIMITED

Report: Continued Public Ownership of Snowy Hydro Limited

Reverend the Hon. Dr Gordon Moyes, as Chair, tabled a report entitled "Continued public ownership of Snowy Hydro Limited", dated October 2006, together with submissions, tabled documents, transcripts of evidence, correspondence, and questions taken on notice.

Report ordered to be printed.

Reverend the Hon. Dr GORDON MOYES: [11.06 p.m.]: I move:

That the House take note of the report.

This report examines the future of the company Snowy Hydro Limited following the withdrawal of the three shareholding governments from the proposed sale in June 2006. This inquiry and an earlier inquiry established at the time of the proposed sale have revealed a deeply held affection among New South Wales citizens for the Snowy scheme. A feat of engineering skill and human endurance, the scheme is largely based on one of Australia's most beautiful national parks and holds special significance for many people. The committee became acutely aware of the community support for retaining public ownership of the iconic Snowy scheme during its visit to Cooma in July this year.

The committee recognises that Snowy Hydro must pursue a high growth strategy if it is to remain viable in the long term and that the shareholding governments will not fund Snowy Hydro's necessary growth. We have been mindful of the strength of community support for keeping the iconic Snowy scheme in public hands and for ensuring that it meets its environmental and irrigation obligations. The committee recommends that the New South Wales Government pursue the position jointly taken with the Victorian Government that the Commonwealth acquire Snowy Hydro Limited and that any acquisition must guarantee the retention of existing water entitlements and the public ownership of the corporation.

In addition, the New South Wales Government must ensure that the community is adequately informed about any future proposals regarding the ownership and funding of Snowy Hydro. The committee also recommended that the Snowy Scientific Committee be established immediately and monitor the impact of the environmental water flows on the fragile Snowy River. As honourable members could imagine, this is an extremely complex financial situation. We have gone to some trouble to try to find ways in which to effectively continue the public ownership of Snowy Hydro. Finding the finances to continue Snowy Hydro involves not only vast economic research but also a great deal of ideological conflict between members of the committee. I thank committee members for working through this issue with me in a great deal of detail. I express in my Chairman's Foreword my appreciation of the secretariat and of committee members, who saw the inquiry through to its conclusion. At 1.00 p.m. today we will make a press announcement about the report.

Madam President, I must raise an important issue upon which you may wish to seek advice. I look forward to your response to my concern about the tabling of this report and other reports. Committees must follow strict guidelines under the standing orders that govern the tabling of reports in Parliament—which is what I have just done. Unfortunately, this report and a couple of other reports of committees with which I have been involved were given to certain sections of the press in advance of their tabling in Parliament. Confidential committee minutes were also released to the media. I believe this cuts across the role of the House in receiving reports and disseminating the information they contain. Committee reports should be presented to the House decently and in accordance with the standing orders.

The key issue is that there seems to be no way of preventing the leaking of committee reports and of disciplining those responsible for the leaks. I totally absolve the committee secretariat from any involvement in the leaking of this report. I believe that reports and the information they contain are usually leaked by committee members. I ask you, Madam President, to respond—perhaps in written form—to my concerns about this matter so that committees can establish a disciplinary process and ensure that the standing orders of the House are observed when presenting committee reports. The committee report on the Snowy Hydro scheme has huge financial implications and some could benefit from its early release. Therefore it should not have been leaked to certain sections of the financial press.

Debate adjourned on motion by Reverend the Hon. Dr Gordon Moyes.

PETITIONS

Public Land and Waterways Use

Petition requesting that the House oppose legislation that would erode the fundamental rights for public land and water to be enjoyed by the people, and requesting that the House reverse existing legislation that erodes those rights, presented by **the Hon. Jon Jenkins**.

Mr Ian Cohen: Point of order: I would like to know whether the petition presented by the Hon. Jon Jenkins has been submitted to the Clerk of the Parliaments and processed in the usual manner. It is usual for petitions to be validated and then presented to Parliament. If that has not occurred in this case I do not believe it is appropriate for the Hon. Jon Jenkins to present the petition to the House.

The Hon. Jon Jenkins: To the point of order: The petition was authorised by the Clerk of the Parliaments before it was distributed.

Mr Ian Cohen: Further to the point of order: It is all very well to agree on the structure of a petition, but a petition should be presented in the House only if it has been submitted to the Clerks in the usual manner.

The Hon. Jon Jenkins: Further to the point of order: I have already sought the advice of the Clerk of the Parliaments about whether every name and address on the petition should be checked. I was informed that that is not standard practice. In any case, it would take several months—or perhaps even longer—to check every name on a petition with more than 7,000 signatures. I am not sure how the House will address that issue.

The PRESIDENT: Order! There is no requirement that a petition be submitted to the Clerks before it is presented to Parliament. However, it is customary for this to happen in order that the Clerks can ensure that the petition is in order. Members may vote against a petition if they are of the opinion that it has not been presented in a suitable form.

Petition received.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders

Mr IAN COHEN [11.16 a.m.]: I move:

> That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 195 outside the Order of Precedence, relating to a further order for papers regarding grey nurse sharks, be called on forthwith.

I believe it is appropriate to suspend standing and sessional orders to debate this urgent motion. Frustrations are running high over the New South Wales Government's failure to recognise the crisis facing the critically endangered grey nurse shark. Scientists predict that this iconic and once common shark could be extinct from New South Wales waters within a decade. This matter is urgent because, on average, one grey nurse shark from a population numbering in the low hundreds dies every month from human-induced causes. It has been scientifically established that the species breeds very slowly. This death toll may be the tip of the iceberg as most shark fatalities go unreported.

Urgent recommendations have been made to halt fishing in the grey nurse sharks' 16 key habitat sites along the New South Wales coastline. Line fishing is recognised as being a key threat to the species in New South Wales, yet some form of line fishing by commercial and recreational fishermen is still permitted at all sites. The New South Wales Government is currently considering offering sanctuary-level protection at six of the critical habitat sites in marine parks being created in the Port Stephens and Batemans Bay areas. However, a small anti-marine park lobby is opposed to the proposal, which leaves conservationists concerned that the New South Wales Government will compromise and the size of the sanctuaries will be inadequate. The grey nurse shark is in danger of extinction: this is no time for compromises.

Grey nurse sharks cannot afford to wait while the New South Wales Government drags its heels on halting line fishing at all 16 key habitat sites. Conservationists believe a radical IVF program for the grey nurse shark being funded by the New South Wales Government offers little hope for the species, and request that money be spent urgently on conventional conservation in the wild. We know that habitat protection and threat removal save species when governments take action before it is too late.

This matter is urgent. I have presented my argument to the Minister and his officers and requested that the Government agree to my call for papers. However, I have received a negative response. Under the circumstances and due to the urgency of this matter, my request is not onerous. The relevant papers should be made available to all members of Parliament to allow them to reach their own decisions about this extremely urgent matter.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 17

Mr Breen	Miss Gardiner	Mrs Pavey
Dr Chesterfield-Evans	Mr Gay	Mr Pearce
Mr Clarke	Ms Hale	Ms Rhiannon
Mr Cohen	Mr Lynn	*Tellers,*
Ms Cusack	Mr Mason-Cox	Mr Colless
Mr Gallacher	Ms Parker	Mr Harwin

Noes, 20

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

Pair

Mr Ryan	Mr Roozendaal

Question resolved in the negative.

Motion negatived.

SMOKE-FREE ENVIRONMENT AMENDMENT (REMOVAL OF EXEMPTIONS) BILL

Second Reading

Debate resumed from 19 October 2006.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.27 a.m.], in reply: I thank honourable members for their contributions to the debate. I note the principally good contributions from the cross bench that dealt with deaths from tobacco and the need to create a society in which tobacco use is unusual and abhorrent. Smoking is like systematically taking in a poison. There were minimal contributions from the two old Liberal and Australian Labor parties, which are basically beholden to the tobacco industry. They take its money and will not criticise it. Although they are dressed up now to take money from the Australian Hotels Association and perhaps even from Clubs NSW, basically they are unable to take action.

It might be noted that yesterday about 12 people died of tobacco-caused disease, today about 12 will die, and tomorrow 12 or 13 will die; it happens every day and yet nothing happens. Action is taken about our road toll but nothing is done about tobacco deaths. A few weeks ago, during anti-obesity week, the Minister for Health announced that the health cost from obesity is an appalling $20 billion to Australia—yet tobacco costs the same and nothing is ever done. The Australian Hotels Association and ClubsNSW claim it will cost them $450 million for building projects to create new outdoor areas to deal with the Smoke-free Environment Act, which allows smoking in areas that are 75 per cent covered, taking into account the total area of ceiling and walls. There is something vaguely absurd and certainly obnoxious about their having to spend a large amount of money to create outdoor areas.

One would think that "outdoors" means outside. Why then are clubs and pubs building? It is because an area that complies with the absurd formula that a permissible area have no more than 75 per cent ceilings and walls, in other words is only 25 per cent deficient, is defined as outdoors. I believe this hopeless definition came from the Australian Capital Territory Chief Health Officer, who was very much under the sway of Mr Richard

Mulcahy, who had been the chief lobbyist of the Tobacco Institute and is now very active in the politics of that toy Parliament in the Australian Capital Territory.

This evil legislation and evil regulation came from the tobacco industry, supported by the Australian Hotels Association which, despite the doubling of value of hotels when they were given poker machines, has not been willing to give anything back to public health. People like John Thorpe have lobbied against smoke-free legislation in the most destructive fashion possible. They have done the tobacco industry's bidding by maintaining a locus in society for smoking. The New South Wales Government and the Opposition have not had the guts to do anything about that. Queensland has said, "We don't smoke round here." Premier Beattie has been far more progressive than the New South Wales Government will ever have the courage to be.

It is nearly 56 years since the seminal paper "Aetiology of Carcinoma of the Lung" by Doll and Peto, published in the *British Medical Journal*, showed that smoking caused lung cancer. Yet we still have the fiddle-faddle of the Smoke-free Environment Act and the provision of exemptions through this mickey mouse regulation. Clubs and pubs are supposed to be smoke-free in July 2007—conveniently enough, after the State election—but, as long as they build outdoor areas, they will be able to remain smoky forever. The Smoke-free Environment Act was legislated to get around the Occupational Health and Safety Act, which demands that workplaces be free of hazards. The Smoke-free Environment Act was designed to ensure smoking could continue in these particular workplaces.

Of course, it is impossible now to conceive that a smoky environment could be a workplace free of hazard. But the difficulties in proving this are legion. When I joined the non-smokers movement in the late 1970s we had great difficulty trying to find plaintiffs; job security in the hotel industry was so poor, and turnover of staff between venues so great, that we could not find plaintiffs. Eventually, we discovered Marlene Sharp, who had worked for the Port Kembla RSL and Port Kembla hotel. Marlene, a non-smoker, had developed carcinoma of the larynx. Even though we established that precedent, the smoky environment Act was brought in. I believe the Act was a perverse action to undermine the Occupational Health and Safety Act.

It has even been said that the Occupational Health and Safety Act is under threat because some employer groups say no workplace could ever be free of hazards, that too much is being spent on occupational health and safety, and therefore we must soften these absolute obligations. That argument might be fair enough if it were merely a semantic problem. But the fact is that Australia, compared to the rest of the industrialised nations of the OECD, has an appalling record on workplace deaths. Those are accident deaths, with deaths attributable to smoky environment not included in that record. Research in the early 1980s showed that pub and club workers have a much higher incidence of alcohol and tobacco caused diseases. That is another aspect that the Australian Hotels Association has always tried to play down.

The last bastion of smoky environment is in the clubs and pubs, which give a locus where people can go to socialise and smoke. There was a 7 per cent drop in tobacco consumption when the Federal public service went smoke free. There was a drop in both the number of people smoking in that some people quit, and a drop in the amount that smokers smoked. Both, of course, have very positive health effects. If the last bastion of smoking were to be removed—if it ever can be removed under the cowardly regime of the political duopoly we have in New South Wales and nationally that can be bought by the highest bidder—we would get a massive health benefit in the short and long term. The rate of heart attacks drops within 24 hours of stopping smoking because of the effect of that on the coagulability of the blood.

Even though the rate of cancer drops far more slowly after giving up smoking, with the incidence of cancer tending to relate to a total lifetime dose of carcinogens, the rate of heart attacks would drop quickly and dramatically. The amount of money being spent on intensive care units and medical treatments, often doomed to failure, demonstrates how little commitment the Government has made to address tobacco-related disease and how pathetic the Opposition is as well. That has been reflected in the speeches on this bill, because the contributions of note were from the crossbench. The weasel words came from both Government and Opposition members, who do not have the courage to support the bill because they know they are condemned to vote against it by their need for patronage from the Australian Hotels Association and ClubsNSW.

I had a letter from ClubsNSW requesting that I withdraw a statement about *Club Life*. I had said that research showed how to keep people playing the poker machines after the smoking ban came into force. The

problem for the clubs and pubs is that people whose blood nicotine levels fall suffer a withdrawal syndrome. Smoking is satisfying because it gets rid of the nicotine-caused withdrawal syndrome. And, if people have to go outside to smoke, they will have to leave their poker machines and the flashing lights, and may realise it is a nice day and their wallets are now extremely thin, and will not come back. The danger is that people who cannot afford to keep gambling might stop gambling. I referred to a paper by a psychologist on how clubs can get around this problem. I said it showed how the tobacco industry was trying to maintain smoking in club life. I had forgotten that *Club Life* is the name of the Registered Clubs Association newsletter. I correct *Hansard* in the sense that I meant the milieu, or environment, of clubs that is so conducive to smoking, rather than that the newsletter was directly entangled with the tobacco industry. So I clarify that. I do not believe an apology is necessary. I think a correction of *Hansard* is what I should organise.

I am very disappointed that I have not been able to get from the New South Wales Government a commitment that it will not permit clubs and pubs to have poker machines in so-called outdoor areas. As I have said, under the regulations—which I tried to disallow in this House—an area that is 25 per cent open, taking into account ceilings and walls, can be classed as an outdoor area, when for practical purposes it is an indoor area with one deficient wall. If poker machines could be installed in those outdoor areas, they would be smoking areas with poker machines that are under cover and thus "safe", and people would be able to continue their gambling. Presumably, screens or foliage could be used to maintain an atmosphere that is nice and dark, taking away the consciousness of the changes of day and night.

As anyone who has been in gambling venues knows, from Las Vegas to casinos, the idea is to eliminate all stimuli as to day, night and time, so that people can concentrate on the excitement of gambling, maximising their losses and maximising the profits of pubs and clubs. There is a danger that poker machines will be moved into outdoor areas to keep people smoking and gambling. That is the contribution that the clubs and pubs are making to Australia's public health, Australia's life and Australia's investment strategies for their futures. The clubs and pubs are grabbing the money, and to hell with the consequences—very much like the tobacco industry.

There have been extravagant claims that jobs will be lost. In June 2004 the Cancer Council produced a magnificent research paper by William Junor, David Collins and Helen Lapsley, entitled "The macroeconomic and distributional effects of reduced smoking prevalence in New South Wales." The executive summary states:

> Reducing smoking in NSW would significantly reduce output, employment and profits in [the] tobacco industry itself, but would have very little overall impact on aggregate NSW output or employment. At the same time a reduction in smoking could constitute a significant step towards reducing the impact of poverty in the State. These are the main conclusions of this research study examining the economic impact of reduced smoking in NSW.

That is a highly repeatable paper, 20 pages long, produced for the Cancer Council of New South Wales in June 2004. All the gloom and doom, all the talk about economic output and the suggestion that reducing smoking will be harmful is a lot of rubbish! Everybody knows it is a lot of rubbish. Even the Government and the Opposition know it is a lot of rubbish. Why do they continue to support the tobacco industry? It is because the tobacco industry and the pubs and clubs industries shovel money into their campaign funds and they use that money to bamboozle the public into voting for them. They ought to be smug. God knows it is a fact that the voting system is rigged so that only the Liberals or Labor can win. One can only ask the question: Why do they not have the guts to act in the interests of the people of Australia and not simply allow smoking forever to pander to the tobacco industry, and the pubs and clubs?

The granting of exemptions is extremely disappointing. The Smoke-Free Environment Act should be called the "Smoky Environment Act" because it effectively legitimised smoking by allowing for exemptions in law whereas the Occupational Health and Safety Act states that the workplace has to be free of hazard. Every definition of "hazard" includes environmental tobacco smoke. Let me look to the positive side. My bill removes the exemptions for smoking in pubs and clubs, which means that a smoke-free environment would be a smoke-free environment. That is what this bill says, that a smoke-free environment is just that. It does not include exemptions for pubs and clubs. It does not have funny outdoor areas constructed with suspect formulas; it actually has a smoke-free area. I commend the bill to the House.

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

The House divided.

Ayes, 9

Mr Brown
Mr Cohen
Ms Hale
Reverend Dr Moyes
Reverend Nile
Ms Rhiannon
Dr Wong

Tellers,

Dr Chesterfield-Evans
Mr Jenkins

Noes, 20

Mr Breen	Miss Gardiner	Mr Pearce
Ms Burnswoods	Ms Griffin	Ms Robertson
Mr Catanzariti	Mr Lynn	Mr Tsang
Mr Clarke	Mr Mason-Cox	Mr West
Mr Colless	Mr Obeid	*Tellers,*
Mr Donnelly	Ms Parker	Mr Harwin
Ms Fazio	Mrs Pavey	Mr Primrose

Question resolved in the negative.

Motion negatived

FEDERAL GOVERNMENT INDUSTRIAL RELATIONS WORKCHOICES LEGISLATION AND WORKPLACE CONDITIONS

Debate resumed from 19 October 2006.

The Hon. IAN WEST [11.50 a.m.]: Since the motion was last debated in the House on 19 October, members opposite have continued to regurgitate the spin emanating from their Federal counterparts and their corporate sector supporters by telling us that workplace changes are necessary. In some bizarre Orwellian way, they tell us that by making it easier to sack people, more people will be employed; by making it possible to pay people less, people will be paid more; and by taking away bargaining power from workers, workers will have more choices. That spin does not alter the fact that under extreme Federal Government industrial relations laws, many have already suffered—and no doubt more will suffer as the laws gather momentum. By now everybody knows someone who has been dudded by the Federal Government's one-sided employer-prerogative laws that are about putting all the bargaining power into the hands of employers, the legal profession and industrial relations clubs, such as the Australian Chamber of Commerce and Industry [ACCI].

For evidence of employer bias in the Federal Government's industrial relations laws, one need go no further than the ACCI's enthusiasm for the legislation. A former Prime Minister, Paul Keating, is correct in describing these groups as nothing more than cheerleaders for the conservative Liberal Party. In a letter to the *Australia Financial Review*, which was published on 28 September, former Prime Minister Keating stated that the ACCI should be sent back to the Liberal Party for whose rancid industrial policies it argues. While that position may be self-evident to me, even doubters and swinging voters would be able to see that in relation to industrial relations the conservative and outdated Liberal-National Coalition in Federal Parliament and its business lobby groups are in cahoots.

The Hon. Jennifer Gardiner: Cahoots? That is a good word. You know all about cahoots.

The Hon. IAN WEST: They are in cahoots and they are colluding to exclude the rightful participation of employee organisations. The Federal Government has reportedly held private meetings with the ACCI over WorkChoices. To my knowledge, that privilege has not been afforded to other organisations, such as those that represent employees. For the benefit of the Hon. Greg Pearce, I point out that the industrial relations arena is a

tripartite set-up. The Hon. Greg Pearce may not know that, so I will try to educate him. Whether one likes it or not, one cannot simply eradicate an essential part of the relationship. People are slowly beginning to realise that, although members opposite appear to have some difficulty. The industrial relations arena is tripartite. It consists of organisations of employers, unions of employees and the Government. It was set up as tripartite, and people cannot simply eradicate one party as though it does not exist. Earlier this month in the *Inner-West Weekly*—

The Hon. Charlie Lynn: Gee, that would be well read.

The Hon. IAN WEST: Yes, it is well read. It is a Murdoch publication in the Federal electorate of Bennelong in New South Wales. Earlier this month in Bennelong, which is the current Prime Minister's electorate, the *Inner-West Weekly* published an advertisement promoting employers adviser programs. The advertisement featured logos of both Australian Business Limited [ABL] and the Federal Department of Employment and Workplace Relations. For the benefit of members opposite who do not know, Australian Business Limited [ABL] is a union of employers. The advertisement stated:

> ABL State Chamber in conjunction with the Department of Employment and Workplace Relations (DEWR) present a FREE educational seminar to help employers understand how WorkChoices relates to their business.

No doubt the seminar would have explained how WorkChoices could be exploited for the benefit of members of ABL. The advertisement continued—

The Hon. Charlie Lynn: From the *Inner-West Weekly*? Are we still on the *Inner-West Weekly*?

The Hon. IAN WEST: The *Inner-West Weekly* in the Federal electorate of Bennelong.

The Hon. Greg Pearce: What date was that?

The Hon. IAN WEST: The date was 5 October 2006. The advertisement also stated:

> By attending this ABL State Chamber event—

I note that it is referred to as an event—

> you will have the opportunity to ask your WorkChoices questions and get a personalised response from our team of workplace relations experts.

That type of promotion, with government departments working hand in hand with business lobby groups, makes it abundantly clear—everyone knows it is true, and even members opposite could understand it—that the Federal Government's industrial laws are designed by big business, for big business, in the interests of big business, and in the interests of ensuring that workers and employees are not represented. The publicity generated over plans to move many Australian jobs offshore shows that employer organisations or employer unions, in collusion with the current conservative Government, are interested in boosting the bottom line, no matter what the cost is to the Australian community. When I use the term "cost", I am referring to the damage to the very fabric of society and family. Our current Prime Minister talks all the time about family. I wonder if he really understands what family is. I notice that the finance sector keeps telling us how things are tough and they are going broke.

This month the media reported on Westpac's plan to send 500 jobs to India, the National Australia Bank's plan to send 160 jobs to India, the St George Bank plan to send 80 jobs to India, and the Qantas plan to shift 300 information technology jobs to India. India is a popular place at the moment. May I be so bold as to suggest that a trend may be developing. I am sure that my learned colleague the Hon. Charlie Lynn would understand that trend. He understands what trends are all about.

The Hon. Charlie Lynn: You only have to look at the economy under John Howard.

The Hon. IAN WEST: Yes, there is a trend there. The actions of those companies, some of whom spend millions in promoting their Australian image, are reprehensible. Of course, sending jobs offshore is nothing new. Certainly the WorkChoices laws make it easier to send thousands of jobs offshore. While workers in businesses with less than 100 employees have no access to unfair dismissal action, the Government claims that workers in companies with more than 100 employees will still have access to unfair dismissal laws. We all know what that means: a con job was involved.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

SYDNEY BUS SERVICES

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minster for Roads, and Minister Assisting the Minister for Transport. In the Minister's new portfolio responsibility for buses, as well as his existing responsibility for roads, will he act to ensure that additional bus lanes and bus priority measures will be introduced? Now that the Minister is responsible for approving every bus route in the city—and is already responsible for bus lanes and has a record of removing bus lanes and authorising the misuse of bus lanes—what hope can the Minister give to the commuters of Sydney that additional bus lanes and bus priority measures will be advocated and adopted under his ministry?

The Hon. ERIC ROOZENDAAL: Does someone write the material used by the Leader of the Opposition? Maybe he makes it up himself. This is an important matter, and I want to see more people using our buses. I will work hard with the community and the bus industry to achieve that.

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

The Hon. ERIC ROOZENDAAL: I am very honoured to serve the public and to have this additional responsibility. My priority is to get on with the job. The Premier has set out the Government's plans for transport. As Assistant Minister for Transport I will continue to implement those plans and I will continue to work closely with the Minister for Transport. As Minister for Roads, I fully understand community concerns about congestion, and I will work hard to have more people on our buses, especially in times of high petrol prices and rising interest rates. That means providing the best quality bus services we can. My first priority today was to meet with the chief executives of the State Transit Authority, Mr John Lee, and Sydney Ferries, Mr Geoff Smith.

The Hon. Jennifer Gardiner: What bus runs to Bondi?

The Hon. ERIC ROOZENDAAL: The Hon. Jennifer Gardiner has a choice: the 380 or the new 333 bendy bus, for which passengers have to prepay. There are other buses as well. I will soon meet with Mr Jim Glasson, the Director General of the Ministry for Transport. There are clear advantages in having buses, taxis and roads reporting to one Minister and I reaffirm my commitment to support and promote co-ordination between our transport agencies. The Roads and Traffic Authority [RTA] can help improve public transport, and that is a key part of my agenda for the RTA. In fact, $170 million of the $3.3 billion Roads budget is directed to improving roads for buses.

I inform the House of some facts that challenge the assumptions many people hold about roads and public transport in Sydney. Sydney has by far the highest use of public transport of all Australian cities. In Sydney, more than one in five people use public transport to get to work—about 22 per cent—compared to less than 13 per cent in Melbourne and Brisbane.

The Hon. John Ryan: That is true, it is bigger than Albury.

The Hon. ERIC ROOZENDAAL: The Hon. John Ryan should listen; if he did, he would learn something. On weekends nearly half of all trips are for social and recreational purposes. Half the trips made each day in Sydney are less than five kilometres, most of which are made by car. Travel to school has changed. Between 1981 and 2002 the proportion of children driven to school has doubled to more than 50 per cent. Only a quarter of all trips are work related; the majority are for shopping, recreation and personal business. Sydney is Australia's public transport city. More than one in five people use public transport to get to work and that is why I fully support and expect the Roads and Traffic Authority to work closely with transport agencies and the city of Sydney council to keep the city moving. Effective public transport needs good roads.

I am a supporter of bus priority lanes, strategic bus corridors, bus rail interchanges, and the reservation of public transport corridors. The Government has delivered the first stage of bus reform in the Sydney metropolitan region. We now turn out attention to outer metropolitan, rural and regional areas. I will continue to deliver improvements to the safety and reliability of the Sydney Ferries Fleet. Further, taxis are an important part of our public transport network. Safety for drivers and passengers remains a Government priority.

DENTAL SERVICES

The Hon. IAN WEST: My question is addressed to the Minister for Health. What is the latest information on the New South Wales dental work force?

The Hon. JOHN HATZISTERGOS: Following the Government's announcement in the Health budget of an additional $4 million this year, and an additional $40 million over four years, the New South Wales Government will provide for additional dentists. Those dental positions are currently being recruited. Some 16 dentists have been interviewed and offered positions. They will take up positions in New South Wales hospitals and dental clinics. The current situation in the dental workforce has resulted in a critically short number of training places. Unfortunately our repeated calls for the university to provide additional places for dentists, in both the private and the public sectors, have not been acceded to.

Recently the Commonwealth announced that it would provide an additional 40 places, which will take the number of Commonwealth-supported places from 45 to 85—20 Dentistry and 20 Bachelor of Oral Health—commencing next year. Those positions will not enter into the dental workforce until the training is complete. In the meantime, the New South Wales Government's commitment has been to go overseas to recruit the required additional dentists and, at the same time, to try to use the private sector more by increasing the use of the fee-for-service benefits. Those benefits have increased, so the service now operates at the same remuneration level as applies to Department of Veterans' Affairs patients. I hope that that will encourage more private practitioners to make their services available to public patients.

I am distressed by a number of reports I have read from across the State, including Tamworth, that using private practitioners cannot solve the practice shortages because no dentists are available to provide services. I am distressed also to learn that in a number of towns no dentists are available in private practice, meaning that additional patients have had to be accommodated through public dental clinics.

The Hon. Robyn Parker: Oh, no!

The Hon. JOHN HATZISTERGOS: The Hon. Robyn Parker might be distressed about that, but it is true. In Tenterfield there are no dentists, public or private. The Government has supplied a dentist to Tenterfield for public patients, bringing them in from other larger centres in order to ensure that they have a dental service. Let us not lose sight of the fact that the Commonwealth Government has consistently refused to fund the training places that we require.

The Hon. Robyn Parker: How long are they on the waiting list?

The Hon. JOHN HATZISTERGOS: The Hon. Robyn Parker should not lose sight of the fact that her Government in Canberra has consistently refused to fund the training places that we require for dentists.

The Hon. Robyn Parker: That is your responsibility, is it not?

The Hon. JOHN HATZISTERGOS: Under the Constitution, it is the responsibility of the Hon. Robyn Parker's colleagues in Canberra. They have the responsibility for dental services, and they advocated it with the Commonwealth Dental Program. They took $350 million out and put that money into a subsidy for private health insurance for people who could not afford private health insurance. Her own committee found that 17 per cent of the public dental waiting list consists of people—

The Hon. Robyn Parker: How many people are on the waiting list?

The Hon. JOHN HATZISTERGOS: The Hon. Robyn Parker should listen to this as I am referring to her own committee. Seventeen per cent of the people who are on the public dental waiting list have private health insurance. Opposition members should ask themselves the question: Why would people put themselves on a public waiting list if they have private health insurance?" The reason is that the subsidies that have been provided through the rebates do not cover anywhere near the full cost of dental services, so people prefer to go on the public dental waiting list rather than have access to private health. [*Time expired.*]

SCHOOL ZONE FLASHING LIGHTS CONTRACT

The Hon. DUNCAN GAY: My question without notice is directed to the Minister for Roads, and Minister Assisting the Minister for Transport. Does the Minister recall that on Tuesday this week he refused to inform the House of the name of the company awarded the contract for the flashing lights program because commercial agreements are being finalised? Why then has the Minister announced all details of the program before finalising those agreements? Will the Minister confirm whether the company Streetscape is being considered to be awarded the contract, or has been awarded the contract, for the flashing lights program?

The Hon. ERIC ROOZENDAAL: The school zone safety package that was announced earlier in the year by the Government is a comprehensive package that deals with the important issue of school safety for schoolchildren around the State. I remind honourable members that it involves a number of aspects, including expressions of interest to get the latest state-of-the-art, high visibility warning devices from the private sector. We conducted an extensive field test of 43 sites with flashing lights and found them to be unreliable in some aspects and inefficient. So the obvious thing to do was to go back to the private sector and say, "We know you can do better."

As a result of the expressions of interest, the Roads and Traffic Authority [RTA] panel selected a number of technologies. I remind honourable members that they included overhead flashing lights, high visibility lights, in-ground lights in roads similar to those on airport runways, and a sign located on the side of the road with the number 40 and a flashing light around it. I believe that that sign will be powered by solar power. I make it clear to honourable members that the expressions of interest process, the selection of technology, and the selection of successful proponents have been conducted at arm's length from the Minister's office.

I am advised that the RTA has adhered to all probity requirements and has made all decisions in relation to the selection of technology and the selection of successful proponents. In addition, an independent probity auditor has been involved in this whole expression of interest process and the determinations of proponents. What was announced on Sunday was great news for many schools around the State. It clearly outlines the technology we will be implementing and the time frame within which we will implement the first 100 sites, as explained in my media release. Clearly, as I stated previously, the RTA is finalising commercial arrangements with successful proponents. Once that is completed the RTA will release the names of all proponents, as it does with all government contracts.

SCHOOL ENROLMENT FORM AND RELIGIOUS DENOMINATION

Reverend the Hon. FRED NILE: My question without notice is directed to the Minister for Health, representing the Minister for Education and Training. Has the 2006 New South Wales public school enrolment form confused the organisation and conduct of religious instruction classes known as scripture classes? Does the enrolment form now ask "What is a child's religion" instead of "To what Christian denomination does the child belong, for example, Anglican, Catholic, et cetera"? Will the Government urgently reprint the enrolment form for 2006-07 and the following years to include the first question, "To what Christian denomination does the child belong" and then the second question, "or any other religion, Buddhist, Muslim, et cetera"?

The Hon. JOHN HATZISTERGOS: Assuming that all the facts in the honourable member's question are correct, is he implying that somehow having a Christian denomination is not a religion? That seems to me to be the basis on which the honourable member has asked his question.

Reverend the Hon. Fred Nile: Schools need to know the denomination and not the religion.

The Hon. JOHN HATZISTERGOS: From time to time I fill out these forms for my children. Anyone who is asked the question, "What is a child's religion" is perfectly entitled to put down that he or she is Anglican, Catholic, Greek Orthodox, or Jewish. Those are all religions. People are free to do that. I do not think people are confused by the expression "religion".

Reverend the Hon. Fred Nile: They write down "Christian".

The Hon. Duncan Gay: They very rarely write down "Democrat" though.

The Hon. JOHN HATZISTERGOS: Presumably there is a line on the form and people fill it in with whatever information they want. They do not have to tick a box to state that they are Christian, Jewish, or something else. I do not understand what the honourable member is driving at.

Reverend the Hon. Fred Nile: Schools want to know what denomination a child is.

The Hon. JOHN HATZISTERGOS: I am sure that schools can work out those sorts of things.

Reverend the Hon. Fred Nile: It is causing confusion.

The Hon. JOHN HATZISTERGOS: I will refer the honourable member's question to the Minister for Education and Training.

DISABILITY SUPPORTED ACCOMMODATION SERVICES

The Hon. KAYEE GRIFFIN: My question is directed to the Minister for Ageing, Disability and Home Care. Will the Minister outline what is being done to improve disability accommodation services in New South Wales?

The Hon. JOHN DELLA BOSCA: The New South Wales Government has an excellent track record in increasing supported accommodation places and improving the types and availability of care for people with a disability and their families. Between 1999 and 2005 more than 1,000 people with a disability received new group home accommodation. That figure includes 400 people whose needs were not being met in boarding houses who were relocated; 309 people relocated from large residential centres; 150 people housed under a program to free up blocked respite beds; and more than 200 people who were at risk of becoming homeless and who were housed as a result of an emergency response fund.

In addition to these 1,000 places, a further 600 people received accommodation support—200 via the attendant care program and 400 via the emergency response fund. Despite these increases in places, there was a high level of unmet need for supported accommodation. It was clear to me that we needed to rethink the models of supported accommodation and allow more flexible and innovative models than those currently operating. At the beginning of the year the Government released the accommodation and support paper. This paper was the result of feedback received through over 200 submissions, regional consultations and roundtable discussions that I hosted and that were attended by people with a disability, carers, peak bodies, academics, parents and other stakeholders.

The Government's new approach to specialist disability accommodation is about flexibility, innovation and outcomes. It has been positively received by people with a disability, families, service providers and the community. Honourable members would be aware that in May this year the Premier released a $1.3 billion plan, a new direction in providing disability services, called Stronger Together. Stronger Together provides an additional 990 supported accommodation places over the next five years; 320 intensive in-home support packages; alternatives to nursing homes for 300 people; and $40 million set aside for innovation to develop new and innovative ways of delivering support services and accommodation for people with a disability.

Stronger Together is an historic increase in support services for people with a disability and their families. Stronger Together has already begun to make a difference to many people with a disability and their families. Last night in this House the Hon. John Ryan cried crocodile tears for people with a disability needing supported accommodation. He sounded sincere, yet he conveniently failed to mention in his speech that the Opposition has not promised one extra supported accommodation place, if elected next year. The Opposition has not offered any attendant care packages—not one—and it has not agreed to fund alternatives—

The Hon. John Ryan: Don't worry.

The Hon. JOHN DELLA BOSCA: But I am worried about people with a disability, as we all should be. Is the Hon. John Ryan waiting to clear up his preselection before he releases a policy? The Opposition has not agreed to fund accommodation alternatives for younger people in nursing homes—not one place.

The Hon. Michael Gallacher: That is nasty; it's not a good look for you, John.

The Hon. JOHN DELLA BOSCA: I am never nasty. As for innovation, there is not one mention. The Opposition has no plan for disability services and is capable only of carping and criticising the Government's genuine, well-funded improvements. To add further insult for people with a disability and their families, the Opposition refused to support the Iemma Government's bid to gain extra, much-needed disability funding from the Commonwealth. If the Commonwealth were to match our $1.3 billion, it would make a dramatic difference to the provision of accommodation. But those opposite cannot ask the Howard Government to match our spending because they have no intention of delivering funded promises, and Peter Debnam has no intention of ever standing up to John Howard and Canberra about anything of importance to the people of New South Wales.

LONG BAY PRISON HOSPITAL AND FORENSIC FACILITY

Ms LEE RHIANNON: I direct my question to the Minister for Justice. With regard to the public-private partnership [PPP] that the Government has awarded for a new forensic facility and prison hospital at Long Bay gaol, can the Minister clarify exactly what maintenance and selected services have been contracted out to the private consortium? Is the Minister aware that Babcock and Brown Investment Bank, a member of the PPP consortium, is planning to float the forensic facility on the London Stock Exchange? Does the Government defend the practice of an investment bank making money from the mental health services tragedy that is putting thousands of people in gaol? Given the evidence that infrastructure managed by the private sector often results in cost cutting, what guarantee can the Minister give that mentally ill people in the hospital will not suffer because of inadequate services or poor cleanliness caused by cost cutting on the part of the private operator?

The Hon. TONY KELLY: That question obviously requires a detailed answer. I will undertake to get a full response for Ms Lee Rhiannon.

CERNER CORPORATION ELECTRONIC MEDICAL RECORDS CONTRACT

The Hon. JOHN RYAN: My question is directed to the Minister for Commerce. Why was the contract for the new medical records system awarded to the Cerner Corporation, a U.S. company based in Kansas in the United States of America, when New South Wales has some of the finest medical software companies in the world? Which New South Wales companies made the tender shortlist and why did the Department of Commerce ultimately decide to award the contract to a foreign firm?

The Hon. Michael Costa: Howard signed a free trade agreement with the USA, you dope!

The Hon. JOHN DELLA BOSCA: As the Treasurer just indicated—and we should require no reminder—there is a free trade agreement between Australia and the United States of America, which was signed by the Commonwealth Government. The last time I looked at the Australian Constitution, the New South Wales Government had no treaty powers. The Minister for Health has already waxed about those matters.

The Hon. Melinda Pavey: Waxed lyrical?

The Hon. Duncan Gay: Waxing is what he does privately.

The Hon. JOHN DELLA BOSCA: He is certainly not waning. The Iemma Government recently recast a range of issues in relation to its information technology plan, an aspect of which is the relationship between procurement and industry development in Australia. The simple fact of the matter is that the kind of protectionist regime that the Hon. John Ryan advocates would be self-defeating both for—

The Hon. Eddie Obeid: Like Black Jack's protection.

The Hon. JOHN DELLA BOSCA: I am a great admirer of Black Jack, but I think not even he would support such a ridiculous proposition. The fact of the matter is that—

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

The Hon. JOHN DELLA BOSCA: I was giving an explanation for the benefit of the Hon. John Ryan. He is anxious to establish his credentials as the shadow Minister for Commerce. I think this is the first question he has asked me in that capacity.

The Hon. John Ryan: Wrong.

The Hon. JOHN DELLA BOSCA: No, it is the second.

The Hon. John Ryan: Wrong again.

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

The Hon. JOHN DELLA BOSCA: Perhaps he has asked three questions. I had better check my diary and return to the House with an accurate account of exactly how many—

The Hon. John Ryan: Point of order: The Minister is debating the question rather than answering it. While he is busy checking how many questions I have asked about commerce, he might consider how many questions he has asked himself about the Commerce portfolio.

The PRESIDENT: Order! The Minister was not debating the question specifically but rather the member who asked it.

The Hon. JOHN DELLA BOSCA: I will check my diary and establish exactly how many questions the Hon. John Ryan has asked me about commerce matters. If he had been following the Commerce portfolio he would know that the Government recently issued a statement about a plan for government information technology development that will not only enhance value for taxpayer dollars but also ensure that the New South Wales Government is at the forefront of information and communications technology [ICT] innovation. If the Hon. John Ryan understood anything about the ICT industry he would know that that is critical to enabling the Australian information technology industry to grow.

The New South Wales Government is a buyer in the market place—we are certainly the second biggest purchaser of ICT in the country. By establishing and leading the way in innovative procurement we will offer real benefits to the local industry. Those who produce individual, innovative products are most likely to be onshore, to be based in New South Wales and to be Australian businesses. If we were to go down the route that the Hon. John Ryan advocates we would hand over all procurement to multinational and global providers.

SMOKE ALARMS INSTALLATION

The Hon. CHRISTINE ROBERTSON: My question is directed to the Minister for Emergency Services. Can the Minister advise honourable members about the new requirements under the Government's smoke alarm legislation?

The Hon. TONY KELLY: I thank the Hon. Christine Robertson for her question and acknowledge her continuing interest in the State's emergency services. As all members will be aware, this year the Government introduced a package of significant fire safety reforms to help prevent loss of life in domestic fires. Under this new legislation it is mandatory to install smoke alarms in all homes and in other buildings where people sleep. This includes existing homes, boarding houses, hostels, hotels, motels, hospitals, nursing homes and even relocatable homes. The Environmental Planning and Assessment Amendment (Smoke Alarms) Regulation specifies what type of buildings need alarms installed, the types of alarms and where they are to be located. Alarms must comply with the Australian standard unless they were installed before 1 May, in which case they are deemed to comply, provided they are working and installed in the correct location.

Homeowners can choose either battery-operated or hard-wired devices, and landlords must ensure that they install alarms in their rental properties. The Government considered it reasonable to give families and property owners the time to comply with these laws and the new requirement before making them liable for penalties. People were granted a six-month grace period from 1 May, but I must warn that this grace period is about to end. The deadline for installing smoke alarms is next Wednesday 1 November. After this it will be an offence not to have at least one working smoke alarm installed, with penalties of up to $550 able to be applied.

Advertisements have been placed in newspapers, and firefighters around the State have been conducting community safety education programs and speaking to their local media to remind people that they must act now. I trust that all members have installed smoke alarms in their homes. I remind people that even if smoke alarms are activated when they burn the toast—

The Hon. Charlie Lynn: There's nothing wrong with burnt toast.

The Hon. TONY KELLY: I agree: I like my toast burnt too. But people should not remove the battery from the device so that the alarm is not activated. It is an offence to remove the battery from a smoke alarm unless one is replacing it or maintaining the device. They are not supposed to be used as cooking alarms in the kitchen either. These reforms were prompted by the deaths of thirteen people, including seven children, in homes across New South Wales in a fortnight at the start of winter last year. It was a terrible toll, and the Government immediately pledged to work with its fire services on initiatives to help prevent a recurrence of such tragedies. NSW Fire Brigades has advised me that this year during the winter months firefighters attended many house fires where smoke alarms had saved lives by providing early warning of danger.

The Hon. Melinda Pavey: In how many homes did an alarm go off and people were saved?

The Hon. TONY KELLY: There have been many. The firefighters have found that the homes of the majority of people who died in fires did not have working smoke alarms. It is apparent that the majority of property owners in New South Wales have done the right thing. A Wormald survey earlier this year found that 82 per cent of households now have a working smoke alarm. That is an increase of more than 15 per cent or roughly 220,000 homes. So the safety message is getting through. However, I again remind anyone whose home does not have a smoke alarm: Do not wait until next Wednesday for the deadline; install one now because disaster can strike at any time.

APOLOGY TO FORGOTTEN AUSTRALIANS

The Hon. Dr PETER WONG: My question is directed to the Minister for Justice, representing the Minister for Community Services. Is the Minister aware that the Premier of Victoria, Mr Steve Bracks, issued an apology to the forgotten Australians on a Wednesday night in August this year? Is the Minister aware also that it was a proper apology and it was followed by apologies from a further three members of the Victorian Parliament, including the Victorian Leader of the Opposition and the Victorian Leader of The Nationals? Why did the Minister in New South Wales decide to make an apology in answer to a dorothy dixer and not allow other honourable members to speak to make similar apologies?

The Hon. TONY KELLY: I undertake to pass the suggestion of the Hon. Dr Peter Wong on to members in the Legislative Assembly. I point out that Ms Reba Meagher recently made an apology on behalf of successive New South Wales governments and stated:

> On behalf of the New South Wales Government, I accept and acknowledge the emotional, physical and sexual abuse suffered by many of the children entrusted to institutional care in this State. I, therefore, have the honour of offering them this heartfelt and sincere apology.
>
> The Government of New South Wales apologises for any physical, psychological and social harm caused to the children, and any hurt and distress experienced by them while in the care of the State. We make this apology in the hope that it may help the process of healing. The New South Wales Government is strongly committed to supporting families to reduce the need for children to be in care. Where children and young people are placed in care, the Government will assist with the services available to them. We hope that this apology will be accepted in the spirit in which it is made and that the New South Wales Government, our community partners and the community at large can continue to work together to build a better and safer place in which our children can live, grow and flourish. We know we need to listen to these people and work with them to make this a reality. I thank the House for the opportunity to make this important and much overdue statement. I hope this apology, along with the other measure I have outlined today, will help bring healing and help to those young Australians who, at a vulnerable time in their lives, were let down by the system.

I will pass on the comments and suggestions of the honourable member.

The Hon. Dr PETER WONG: I ask a supplementary question. Will the Premier make a proper apology on behalf of New South Wales and also invite the Leader of the Opposition to do so?

The Hon. TONY KELLY: I will also pass on that suggestion.

COFFS HARBOUR BASE HOSPITAL ANTENATAL CLINIC

The Hon. MELINDA PAVEY: My question is directed to the Minister for Health. Is the Minister aware of the desperate need for an antenatal clinic to be established through Coffs Harbour Base Hospital for the local community? Given the challenging socioeconomic profile of the mid North Coast region, is the Minister surprised that local midwives advise that up to three people are presenting every week to the hospital to have

their babies without having received appropriate medical care during their pregnancies? Is the Minister aware that the North Coast Area Health Service is again considering funding for the clinic, with a decision expected in November? Will the Minister support the establishment of the clinic and, if needed, provide a funding enhancement to the North Coast Area Health Service to allow the clinic to start, especially in light of a brochure delivered by his Labor colleagues stating that women deserve better with regard to support during their pregnancies?

The Hon. JOHN HATZISTERGOS: I am aware of the community interest in this matter, and the honourable member for Coffs Harbour, as a local member should do, has written to me about it.

The Hon. John Della Bosca: Can the honourable member for Coffs Harbour write?

The Hon. JOHN HATZISTERGOS: Yes, he wrote to me. He actually uses the stationery and the stamps we provide. I am advised that the North Coast Area Health Service chief executive, Chris Crawford, explained at a community consultation meeting that was held at Coffs Harbour recently that there are many priorities for funding, and advised that the antenatal clinic at Coffs Harbour would be considered when the area develops its next budget. I can inform the House that there has been widespread consultation with a number of stakeholders who have an interest in this matter. At this point in time, however, as the honourable member would be aware, the area health service has a number of other priorities: the new cardiac catheter laboratory, which will be opened shortly; expanded renal dialysis services, which I have already announced and opened; the new integrated cancer centre, which will be opening next year; an additional surgery; and provision to cater for an increased emergency department attendance. Antenatal services are important and they are available to the Coffs Harbour community whilst this matter remains under consideration—

The Hon. Melinda Pavey: At great cost to a lot of people.

The Hon. JOHN HATZISTERGOS: No, antenatal care is available to the Coffs Harbour community through general practitioners, obstetricians and other specialists in their rooms.

The Hon. Melinda Pavey: People cannot afford that.

The Hon. JOHN HATZISTERGOS: The Medicare rebates should be able to cover that. If they are not adequate, then perhaps the honourable member can make representations in that regard. A number of communities access antenatal services in that way. I am aware that the indigenous community around that area also has access to a free service at the Galambila Aboriginal Medical Service.

NATIVE VEGETATION MANAGEMENT SYSTEM

The Hon. TONY CATANZARITI: My question is addressed to the Minister for Natural Resources. What has the State Government done to streamline the native vegetation management system?

The Hon. IAN MACDONALD: When the Native Vegetation Act 2003 came into effect last December I made it very clear that the Government would continue to work with landholders and other stakeholders to get the system right. The Iemma Government had introduced a new native vegetation system for the entire State—the first time this has been attempted by any State Government—and it is only natural that there would be some teething problems with the new system. That is why earlier this year I initiated a series of reviews into the system. Today I am pleased to report a number of changes will be made to the native vegetation management system to get the balance right. The reforms are based around protecting the environment through the improve-or-maintain test, while letting farmers get on with the job of farming.

The Government recognises that it should be doing everything it can to help farmers, whom it recognises are the best land managers. These reforms are based on the best available science and are recommended by some of Australia's leading scientists. They reinforce the Government's commitment to end broadscale land clearing unless it meets the improve-or-maintain test, while cutting red tape for farmers. This is about developing a workable system for farmers, introducing changes to make the system more flexible while retaining practical, sensible, environmental protections. Let there be no doubt these reforms are backed by sound advice and scientific knowledge. They are based on recommendations from the independent ministerial review committee, as well as advice from the Natural Resources Commission.

The changes follow lengthy consultation with farming groups, environmental groups and stakeholders across New South Wales. The reforms include improved systems for the management of invasive native scrub [INS], improvements to the Property Vegetation Plan [PVP] developer tool and the streamlining of native vegetation clearing consent processes. I should briefly mention other changes including the addition of more species to INS listings, a relaxation of stem retention requirements and providing catchment management authorities with more discretion. Farming groups have suggested that we need improvements to the current INS management system to allow them to deal effectively with their problems with woody weeds.

The reforms respond to those demands by giving both farmers and catchment management authorities more flexibility to come up with commonsense proposals. In addition, management options to treat invasive native scrub have also been relaxed, with three cropping rotations in 15 years on treated invasive native scrub areas now permitted. The aim has always been to balance the needs of the environment with the sensible treatment of invasive native scrub. I think these reforms go a long way to achieving this balance.

Other reforms include the updating of the datasets, which underpin the PVP developer. The Department of Environment and Conservation is reviewing data in the biometric and threatened species tools and some of this is already being used by catchment management authorities to assess PVPs. This will address issues regarding unrealistic offsets and "red lights". For example, in the Lachlan area, rather than the superb parrot generating an automatic "red light", offsets will now be able to be negotiated. Two PVPs have already been approved in the Lachlan area based on this new science. The land and soil capability tool is also being reviewed and will be completed in the near future. These reviews will use up-to-date science and information to inform clearing PVPs.

I should point out the reforms will also include a streamlined consent process for rural residential land and local government infrastructure and the launch of a new fact sheet for local councils. The reforms are all based on the "improve or maintain" test. We are introducing new local government infrastructure RAMA—routine agricultural management activities—to allow local government to undertake essential works such as utility works, recycling depots and gravel pits. This is the first step, and an important one, in an integrated package of reforms that will be developed to reduce unnecessary duplication between catchment management authorities and local councils.

Another change is to amend the Native Vegetation Act 2003 so that a PVP can "run with the land." Amendments will be introduced to the Act to confirm that PVPs will not necessarily have to be registered on a land title but will go with the land when sold. Previously the only way to ensure this was to register it on the title, and that took two months and had an associated cost. [*Time expired.*]

OPEN SOURCE SOFTWARE

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question is directed to the Minister for Commerce, who is responsible for information technology. Is the Minister aware of the European Union's project to evaluate open source software to determine to what extent it can be used to save money in software licences? Will New South Wales commence a similar project? If so, when? If not, why not?

The Hon. JOHN DELLA BOSCA: It is nice to get a question about the Commerce portfolio from a member who understands the issues. I am pleased to be able to respond to the honourable member's question by saying that open source software is being adopted by governments to achieve continuity of access and vendor neutrality, to improve privacy and security and to ensure efficient use of public funds. The Iemma Government wants to ensure that the potential benefits presented by open source software are fully realised by government agencies. Agencies using open source software include the Roads and Traffic Authority, the New South Wales Office of State Revenue and the New South Wales Judicial Commission.

A case study highlighting the successful implementation of open source software by the New South Wales Judicial Commission is available through the department's website. The Department of Commerce has established a panel of suppliers for open source, or Linux, enterprise software and services. So, essentially, the answer to the honourable member's question is that both a trial and implementation phase have already been entered into, and it is now possible for agencies, on a level playing field basis, to contract into open source systems.

Establishing an accredited panel of companies with demonstrated expertise in supporting Linux software to government means agencies with substantial projects will not have to go through the time-

consuming and expensive process of running an open tender every time they require new Linux software and new Linux services. Seven companies—CSC, Dell, IBM, Novell, 2i2, Sol1 and Starcom—have signed the panel agreement. Those seven companies, and others will follow, have nominated a number of agents and subcontractors, many of them small to medium enterprises. That emphasises the point I made in my answer to a question asked by the Hon. John Ryan, that innovation will drive the best opportunities for Australian industry, particularly local Australian industry in the ICT sector.

The Government's open source program is encouraging sharing of information on open source software and facilitating its use within the New South Wales Government. The program has established an agency reference group, and a web site has been established—which the Hon. Dr Arthur Chesterfield-Evans and for that matter the Hon. John Ryan are welcome to open up—at *www.opensource.nsw.gov.au* to provide information on open source technologies and their application within government. The web site will act as a central repository for agencies wishing to know more about open source software and for open source code that is developed by agencies. A template for comparing the costs of alternative software solutions has been developed to assist agencies to make cost-benefit comparisons between open source proprietal software and that of other alternative open source providers. The Government will continue to explore a range of competitive options when seeking information and communications technology solutions to ensure best possible advantage.

The Hon. Dr Arthur Chesterfield-Evans asked a question about Europe and the Hon. John Ryan asked a question about the United States. I happen to have been privileged to visit Germany about two years ago and, as I am wont to do when I am in a big city, while I was in Berlin I dropped in on the local library, which happened to be the national library in Berlin, Die Deutsche Bibliotek, which has an information and data collection system second to none in the world. I do not necessarily believe in defining behaviour by cultural stereotypes, but the Germans have somewhat of a reputation when it comes to compiling information and keeping it in good order. The fact is that the software company engaged by the German national library in Berlin is of course Wizard, an Australian company that does substantial work for the New South Wales Government. That is the type of opportunity that good policy creates. [*Time expired*.]

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I ask a supplementary question. Will the Minister duplicate the European Union's project to evaluate open source software and make it public, so that people can evaluate and know what products they are getting?

The Hon. JOHN DELLA BOSCA: For the sake of clarity, as I think I said, we have had a trial. Information on that is accessible on the web site that I gave in my substantive answer. In that sense I think I could probably claim that we are ahead of the game.

HOSPITAL EMERGENCY DEPARTMENT PATIENTS BED ACCESS

The Hon. DON HARWIN: My question without notice is directed to the Minister for Health. What action has the Minister taken to address the unacceptable fact that one-quarter of emergency department patients in August who needed to be admitted to hospital had to wait more than eight hours for a bed?

The Hon. JOHN HATZISTERGOS: The honourable member ought to be aware of the fact that access block, which is what I think he is referring to, from an emergency department to a hospital bed does not mean that every patient has to be transferred within the access block time. It does not envisage that every patient will be admitted in that time. It is a measure of the overall effectiveness and efficiency of the system, rather than a requirement that every patient who goes into the emergency department has to be put into a ward bed. There may be very good reasons why a patient should continue to be treated in an emergency department for a longer period if his or her clinical circumstances and conditions so require.

What is important—and this should be recognised—is that in August we recorded the busiest winter on record. We had more patients requiring more emergency surgery, with a 4.3 per cent increase; 9,500 more operations were conducted this winter than last winter; and, despite the increased demands, we managed to get through very well, with improved performance compared with August 2005. Notwithstanding the fact that we had the busiest winter on record, we saw more patients in less time, and at the same time managed to achieve a decrease in our overall waiting list. Honourable members will agree that our staff, our doctors and nurses should be commended for their hard work. To add to the answer that I gave to the honourable member, in this busiest period access block, which is the statistic he referred to, improved by 6 per cent compared with the position in August 2005. What the honourable member needs to do is reflect on his period in government when a lot of these statistics were not kept and the statistics that were kept—

The Hon. John Ryan: He didn't have a period in government. It was so long ago.

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

The Hon. JOHN HATZISTERGOS: I happen to remember the Hon. Don Harwin in his former life. He was a head honcho in the Liberal Party at that particular time no doubt trying to ensure that candidates were selected. He was handing out how-to-vote cards, trying to secure the re-election of a Government under which only 78 per cent of patients with immediately life-threatening conditions were seen within the two-minute benchmark. The benchmark is 100 per cent. Patients should be seen within two minutes, and this Government has been achieving that standard for a number of years. However, when the Hon. Don Harwin was an apparatchik in the Liberal Party, supporting the re-election of the Coalition, only 78 per cent of those patients were seen. The honourable member should be a little more judicious about the questions he asks so as not to embarrass himself and expose himself to such accusations.

HIGHER SCHOOL CERTIFICATE STUDENT SUPPORT SERVICES

The Hon. PENNY SHARPE: My question without notice is addressed to the Minister for Health. Will the Minister acquaint the House with the latest information on support services for higher school certificate students?

The Hon. JOHN HATZISTERGOS: We know that the time of the higher school certificate [HSC] can be very stressful for many students. Study, examinations and working towards the next phase of their lives can place year 12 students under great pressure, and experts tell us that extreme stress can lead to depression, anxiety, and in rare cases more serious mental illness. That is why the lemma Government is taking action to ensure that students have the support they need to get through this important stage of their lives. It is important that HSC students who are suffering from stress know where to go to get the support they need. Of course, families, friends, teachers and other students will play a key role in helping students manage the pressure they feel, but it is important that as a community we keep an eye on our students throughout the HSC.

Local general practitioners and family members can also offer invaluable support at a time like this, but students who are not coping should know that there are specialist support services available to them. The lemma Government provides dedicated counselling services across the State. Any student, parent, teacher or friend can make use of the special counselling lines, which are available 24 hours a day, seven days a week. Each area health service has a dedicated mental health access line that offers counselling and support and may divert students to more specialised assistance if needed. The Government has taken a new direction in the delivery of mental health services and we are making real progress on prevention, promotion and early intervention. Part of that is setting up services for young people to access a range of integrated mental health and general health services.

Over the next five years the lemma Government will invest $28.6 million to provide these specialist centres. They will be located in places frequented by young people and will be staffed by mental health professionals, drug and alcohol counsellors and general health workers who will provide young people with a place to access assistance and information about a range of mental health and other general health issues. Year 12 students should be encouraged to adopt a range of strategies to prevent them from developing mental health problems during this difficult time. In order to help them cope with the stress of examinations it is important, according to the advice from New South Wales Health, that students practise a healthy lifestyle to ensure their physical and mental health is kept at an optimum.

Three key factors contribute towards a healthy lifestyle: sleeping well, eating well, and enjoying regular exercise. It is also important that students take regular breaks from their studies. It will not only benefit them physically but also give them an invaluable sense of perspective when they return to their studies. While the HSC is important, it is equally important that students do not lose focus of the bigger picture. I urge students who are feeling the pressure of their examinations to seek out that support. As I mentioned earlier, each area health service has a specialist 24-hour counselling support line for HSC students. In addition, there is a special Kids Helpline, which is also available 24 hours a day. The Reachout website is further designed to support young people when they are feeling stressed or in need of support, and that is able to be accessed on *www.reachout.com.au*.

Today's HSC examinations include Business Studies and a range of modern languages including Indonesian and German. With a solid support network, a healthy lifestyle and a balanced work ethic, students

should be able to face the HSC with confidence and optimism. I know honourable members will join with me in wishing every year 12 student the best of luck.

INVASIVE NATIVE SPECIES AND LAND CLEARING

Mr IAN COHEN: My question is addressed to the Minister for Primary Industries. Given that the announcement today in relation to changes to the Invasive Native Species Module will allow landholders to clear native vegetation and plant exotic plants, will he now admit that his policy of ending land clearing is over? In the past three years the Government has failed to enforce laws against illegal land clearers. We are still to see a single successful prosecution, despite more than 1,000 alleged breaches of the Act. Will the Minister now be honest with the people of New South Wales and admit that his Government has no intention of curbing land clearing?

The Hon. IAN MACDONALD: The honourable member has, as usual, made a rather rash and hasty decision in relation to the changes that I announced today. Discussion, led by Dr Denis Saunders, has taken place with regard to invasive native species [INS]. The Total Environment Centre had input into that process. In fact, I am advised that Mr Jeff Angel from the Total Environment Centre was on the ministerial review group that made unanimous recommendations in relation to this matter. The honourable member has probably not read the details of the report of Dr Saunders to the Government. What he fails to understand is that managing INS is critical and has to be carried out properly. We have finally been able to put in place a series of recommendations that will, I believe, enable us to enhance and maintain the environment by treating invasive species.

We are talking about invasive species that are acting invasively, not about a forest of eucalypt on the north coast of New South Wales, with which the honourable member is probably better acquainted. We are talking about species that effectively lock up an area. It has been recognised that such species have to be treated in order to keep the land at an environmentally sustainable level. These changes will enable that to be done more effectively and in keeping with the open woodland nature of some of the areas we are dealing with. For the first time in many years that can be done legally through the Catchment Management Authority, which will ensure that land is treated in a manner that is both environmentally sustainable and productive for the farmer. Before making such hasty statements in the future the honourable member should educate himself about the scientific basis for this activity. In fact, I would suggest that he visit the web site I gave him and read the report of Dr Denis Saunders.

Reverend the Hon. Fred Nile: He could talk with Jeff Angel.

The Hon. IAN MACDONALD: Indeed, he could have a chat with Jeff Angel, who is probably the wisest person in the environmental movement. He should have a good conversation with him.

The Hon. Duncan Gay: Would you like to repeat that?

The Hon. IAN MACDONALD: He has worked effectively with the New South Wales Farmers Association and other organisations. He is a very effective person, far more effective than some of the Greens I know. Back to the issue: I suggest the honourable member devote some of his remaining intelligence to read the report of Dr Denis Saunders, which is on the web site. It indicates, in an environmental and sustainable context, how some invasive native species can, in a productive way, be cleared effectively.

The Hon. Rick Colless: Which species?

The Hon. IAN MACDONALD: There are many new species.

The Hon. Rick Colless: What proportion? You said some invasive native species.

The Hon. IAN MACDONALD: We have a Greens problem from the other end of the spectrum, the Opposition. The proposal is that for up to 100 hectares, 10 hectares has to remain in some form—in clumps or dispersed—and the other 90 hectares may be cleared under the arrangement. I think it is a very balanced decision. [*Time expired.*]

Mr IAN COHEN: I ask a supplementary question. Will the Minister categorically deny that he has brought pressure to bear on Dr Denis Saunders, Dr John Williams and the Natural Resources Commission [NRC] to produce science that accords with Government policy—

The Hon. Don Harwin: Point of order: That is an entirely different question and is therefore not supplementary. I ask you to rule it out of order.

Mr Ian Cohen: To the point of order: The Minister specifically referred a number of times to Dr Denis Saunders and a number of other academics. I am asking a question specifically about that person who was mentioned by the Minister.

The Hon. Ian Macdonald: To the point of order: I want to answer it. The question is entirely in order.

The PRESIDENT: Order! A supplementary question must seek to elucidate the answer. Mr Ian Cohen asked an entirely different question. Therefore, the question is out of order.

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

FRANK BAXTER JUVENILE JUSTICE CENTRE

The Hon. TONY KELLY: Yesterday the Hon. Catherine Cusack asked me a question relating to the management of the Frank Baxter Juvenile Justice Centre. At the outset let me say that it is not appropriate to respond to allegations made anonymously. However, I will say generally that when juvenile detention centre management give directions to staff, it is vital for the good order and running of the centres that they are followed. Not to do so would compromise the safety of other staff members and, indeed, detainees. The Frank Baxter Juvenile Justice Centre houses the oldest and some of the toughest male juvenile offenders in New South Wales. I am satisfied that the department's largest facility continues to be managed effectively and that the firm discipline required at the centre is being maintained.

LONG BAY PRISON HOSPITAL AND FORENSIC FACILITY

The Hon. TONY KELLY: Further to a question I was asked today by Ms Lee Rhiannon, I point out that it is a matter that falls within the responsibility of the Minister for Health, the Hon. John Hatzistergos. Accordingly, I will refer the question to him and ask him to respond to it within the requisite time.

INVASIVE NATIVE SPECIES AND LAND CLEARING

The Hon. IAN MACDONALD: In relation to the question asked by Mr Ian Cohen a short time ago, I make it very clear that no pressure was applied to any of the scientists. They are great scientists and they have come up with the reports by looking at the science. The fact that the honourable member is disturbed by that indicates his ignorance of the topic. He should read the report.

M5 EAST STACK HEALTH STUDY

The Hon. JOHN HATZISTERGOS: On 19 October Ms Lee Rhiannon asked me a question about the reanalysis of data from the M5 East health study and when it will be released. I took the question on notice. I advise the House that a resolution for papers relating to these matters has been passed by the House. I am advised that the reanalysis will be released by the due date in accordance with the order for papers.

JUNEE DISTRICT HOSPITAL

The Hon. JOHN HATZISTERGOS: Yesterday the Hon. David Oldfield asked me a question about the requests for ambulances to bypass Junee hospital due to staffing issues concerning on-call general practitioners and visiting medical officers. I am advised that no permanent ongoing ambulance bypass has been implemented for Junee hospital. The area health service has received a complaint regarding a patient being sent to Wagga Wagga Base Hospital as opposed to Junee hospital. The complaint is currently being investigated.

Junee hospital is currently serviced by five general practitioners, all of whom participate in the on-call roster. The doctors are being advised by the cluster general manager, who is reinforcing their clinical responsibilities regarding their availability while on-call. The Junee health service has nine acute beds, one emergency department bay, and a dedicated nursing home ward with 27 residents. Planning has commenced for a new multipurpose service [MPS] centre to be built at Junee that will deliver a new health facility for the Junee community, incorporating residential aged care, inpatient care, and community health services.

DEFERRED ANSWERS

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

GORDON ESTATE, DUBBO

On 21 September 2006 Mr Ian Cohen asked the Minister for Health, representing the Minister for Housing, a question without notice regarding the Gordon Estate in Dubbo. The Minister for Housing provided the following response:

(1) The incidence of crime and anti-social behaviour was a consideration when making the decision to redevelop the Gordon Estate. Despite millions of dollars being spent on the Estate across all levels of Government, the Gordon Estate was not a functioning community. The location of the Estate, isolation from services located in the Dubbo CBD and maintenance costs of more than 300 per cent higher than anywhere else in country NSW were also factors in the decision to redevelop the Estate. The redevelopment is consistent with our policy of deconcentrating public housing in certain areas, as with other redevelopments currently underway in Minto and Bonnyrigg.

(2) The process of tenant relocation will be gradual over three years. There is support for families being relocated, and support for the broader Dubbo community if issues arise. Public housing tenants from West Dubbo estate are being re-housed appropriately, both within and outside the Dubbo area, in accommodation that best meets the needs of tenants and the general community now and in the future.

The strategy takes into account family connections in the re-housing process. All re-housed tenants are visited to ensure any issues that emerge from the relocation are responded to in a timely and appropriate manner. The Department of Housing has employed Aboriginal staff to work with tenants to ensure that relocations are culturally sensitive and appropriate.

REDEEMER BAPTIST CHURCH ELDER APPREHENDED VIOLENCE ORDER

On 21 September 2006 Reverend the Hon. Dr Gordon Moyes asked the Minister for Roads, representing the Minister for Police, a question without notice regarding the Redeemer Baptist Church elder apprehended violence order. The Minister for Police provided the following response:

NSW Police has advised me:

Castle Hill Detectives are conducting an investigation into the Redeemer Baptist Church's allegations against Mr Glossop. The church's solicitors were last advised the current status of the investigation on 25 August 2006.

GORDON ESTATE, DUBBO

On 21 September 2006 Ms Sylvia Hale asked the Minister for Industrial Relations a question without regarding demolition on Gordon Estate, Dubbo. The Minister for Industrial Relations provided the following response:

Resitech, a government owned subsidiary of the Department of Housing, coordinated the demolition work on the Gordon Estate.

John Byrne Demolitions, the company engaged to undertake the demolition work, were licensed to remove bonded asbestos (sheeted asbestos).

Following receipt of a complaint during the course of the demolition work, WorkCover issued five Improvement Notices to John Byrne Demolitions on 29 June 2006. The Notices were complied with by 6 July 2006.

John Byrne Demolitions subsequently instituted an air-monitoring program and forwarded the results to WorkCover. There were no identifiable risks to workers. In addition, no evidence has been presented to WorkCover that any person was exposed to asbestos dust.

TALITHA Pty Ltd, the company engaged by Resitech to complete the demolition work, is licensed to remove both bonded and friable asbestos. Following a further complaint, WorkCover issued one Improvement Notice to TALITHA Pty Ltd on 2 August 2006 concerning perimeter fencing. This was complied with by 5 September 2006.

All demolition work on the site is now complete. WorkCover does not require a site clearance certificate unless friable asbestos is present on a site.

Both John Byrne Demolitions and Resitech were contracted by the Department of Housing. Any questions in relation to those contracts should be referred to the Hon Cherie Burton MP, Minister for Housing.

Questions without notice concluded.

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

Report: Inquiry into Children, Young People and the Built Environment

The Hon. Jan Burnswoods tabled Report No. 8/53, entitled "Inquiry into Children, Young People and the Built Environment", dated October 2006.

Ordered to be printed.

The Hon. JAN BURNSWOODS [1.04 p.m.]: I move:

That the House take note of the report.

I draw the attention of honourable members to this report, which is groundbreaking in relation to the relationship between children and young people and the planning and building of the environment, particularly in urban areas. It is a fascinating report.

Debate adjourned on motion by the Hon. Jan Burnswoods.

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

Reports: **Inquiry into the Results of the Qualitative and Strategic Audit of the Reform Process**

Stakeholder Review of the Merger of the Community Services Commission into the Office of the Ombudsman

The Hon. Jan Burnswoods tabled the following reports:

1. Report No. 13/53, entitled "A Report on an Inquiry into the Results of the Qualitative and Strategic Audit of the Reform Process (QSARP)—Together with Transcript of Proceedings and Minutes", dated October 2006.

2. Report No. 14/53, entitled "Stakeholder Review of the Merger of the Community Services Commission into the Office of the Ombudsman—Together with Minutes", dated October 2006.

Ordered to be printed.

The Hon. JAN BURNSWOODS [1.04 p.m.]: I move:

That the House take note of the reports.

Debate adjourned on motion by the Hon. Jan Burnswoods.

CRONULLA RIOTS REPORT

Production of Documents: Return to Order

The Clerk tabled, pursuant to the resolution of 25 October 2006, documents relating to the police report into disturbances following the Cronulla riots received by the Clerk this day from the Director General of the Premier's Department, together with an indexed list of documents.

FIREARMS AMENDMENT (PUBLIC SAFETY) ACT REVIEW

Production of Documents: Return to Order

The Clerk tabled, pursuant to the resolution of 25 October 2006, correspondence from the Director General of the Premier's Department advising that the Ombudsman's review of the Firearms Amendment (Public Safety) Act 2002 was tabled on 25 October 2006 in compliance with the resolution of that date.

POLICE POWERS (DRUG DETECTION IN BORDER AREAS TRIAL) ACT REVIEW

Production of Documents: Return to Order

The Clerk tabled, pursuant to the resolution of 25 October 2006, correspondence from the Director General of the Premier's Department advising that the Ombudsman's review of the Police Powers (Drug Detection in Border Areas Trial) Act 2003 was tabled on 25 October 2006 in compliance with the resolution of that date.

[*The President left the chair at 1.06 p.m. The House resumed at 2.45 p.m.*]

FEDERAL GOVERNMENT INDUSTRIAL RELATIONS WORKCHOICES LEGISLATION AND WORKPLACE CONDITIONS

Debate resumed from an earlier hour.

The Hon. IAN WEST [2.46 p.m.]: It is clear that the Australian people see through spin and that they see the real damage that has been done by the Federal Government's WorkChoices legislation. Until WorkChoices took effect, the Australian industrial relations system was based on three key principles. First, the independent judicial structure: the ability of the Industrial Relations Commission to hear wage claims and disputes. That structure was based on the legal principle of the separation of powers. The Industrial Relations Commission was not an arm of executive government, unlike the Fair Pay Commission or the Office of Workplace Services. It enabled people to have their day in a truly independent court and to have access to timely and cost-effective judgments, in a court of precedent and of record.

The second principle of our industrial system was based upon freedom of association. That is the unfettered right to be represented by an organisation of choice, registered and fully accountable to the Industrial Relations Commission. The third principle was that of collective bargaining, which is internationally recognised by the United Nations. Collective bargaining is something we all do, even if members opposite and organisations such as the Australian Chamber of Commerce and Industry pretend we do not. It is something we do every day in this Chamber; it is an inherent characteristic of human beings to collude for a cause, be it good, bad or indifferent. Those three key principles will win the day, and they must win the day because they are clearly inherent in human activity and endeavour.

The Australian people will not stand for an unnecessary, unprecedented ideological attack on their working lives and on the welfare of their families. The Prime Minister will go down in history as the man who unsuccessfully tried to destroy the Australian workplace values of equality, fraternity and egalitarianism. When John Howard discovered he had won both Houses of the Federal Parliament he had a responsibility to not abuse that position of responsibility. But the WorkChoices laws are a prime example of how he has abused that trust. He has reinforced the old adage that power corrupts, and absolute power corrupts absolutely. John Howard has re-regulated the industrial relations system in his own image, but the pendulum has swung too far. No doubt in time it will swing in the opposite direction.

A vox pop in the *Northern District Times*, owned by News Limited, a Murdoch publication, was circulated in the Bennelong electorate and published on 27 September 2006. The paper asked six passers-by in Epping, in the Prime Minister's seat of Bennelong, what they thought of the Prime Minister. One said:

> I do not think much of him. He's screwing the country. The new laws for industrial relations will hurt people who can't stand up for themselves.

Another said:

> I do not like his policies, especially industrial relations. It will be a very big issue in the election. If workers are doing any thinking about it at all they will want to do away with it.

Another said:

> I can't stand him, he's a weasel. I don't like his migration policies, his health policies, child care and industrial relations. Industrial relations will be a big issue in the election. Poor people are getting poorer and the rich are getting richer. He's a politician for the people who have the most in our society.

Five out of the six people questioned in the Bennelong electorate voiced opposition to the industrial relations changes. A sixth person merely voiced opposition to John Howard. The Prime Minister would do well to consider the fate of the last Prime Minister who attempted such a radical overhaul of the industrial relations system. Stanley Melbourne Bruce attempted to wrest wage-setting powers from the Industrial Relations Commission and ignore the rights of workers to be involved in deciding the conditions of their work environment. As a result, in 1929 the Government lost the trust of the Australian people and Bruce became the first Australian Prime Minister to lose his seat at an election. I predict there is every chance that loss will be repeated in 2007.

The Federal Government's attack on working people extends beyond WorkChoices. Independent contractor laws before Parliament attempt to remove so-called independent contractors from the traditional industrial relations framework. That adds to the uncertainty for contractors, who are also expected to pay their own superannuation, insurance, and other work-related expenses. One classic example from the ABC's *7.30 Report* revealed that children as young as 14 years were working as independent contractors selling food at sporting venues for a catering company. Those teenagers were working without any WorkCover protection and were working for commission on the snacks they were selling. I am sure most Australians would find it unconscionable that young people—our children, as young as 14—could be exploited in such a way. With the number of independent contractors in Australia estimated to increase by 19 per cent a year, the exploitation of workers under independent contractor arrangements must not be swept under the carpet. So we have the threat from WorkChoices and independent contractor laws.

The third prong in the Federal Government's attack on the wages of workers is obviously the 457 visa program. The neglect of skills training in Australia in favour of the importation of cheap labour is placing downward pressure on wages. Not only do 457 visas undercut wages, they exploit the vulnerability of foreign workers. Most guest workers lack knowledge of local laws, so they do not know whether they are being exploited or illegally treated. It is insulting and deceitful to say that those people can negotiate their own agreements. [*Time expired*.]

The Hon. AMANDA FAZIO [2.53 p.m.]: I support the motion moved by the Hon. Christine Robertson and indicate that I am not particularly taken with the amendment moved by Ms Lee Rhiannon. The New South Wales Government is absolutely determined to do all it can to uphold our fair and balanced industrial relations powers. Workplace laws enshrine the very important Australian value, that is, the right to a fair go. We reject the attempted hostile takeover by the Federal Government and we deplore the wholesale support the honourable member for Vaucluse and his extremist colleagues have given WorkChoices.

To date the New South Wales Government's efforts include rejecting formal requests by the Federal Government that New South Wales refer our industrial powers, and challenging the constitutional validity of the new Federal laws in the High Court of Australia. We have shielded 189,000 public sector workers, including front-line workers such as nurses, ambulance officers, TAFE teachers and bus drivers, from the divisive and unbalanced WorkChoices legislation. We have committed State-owned corporations not to use WorkChoices to cut pay and conditions. We have amended the Industrial Relations Act 2006 to allow the Industrial Relations Commission of New South Wales to conciliate and arbitrate disputes where unions and employers agree.

We have announced proposals to protect in excess of 150,000 young people under the age of 18 who are in formal employment by legislating that wages and conditions for young workers must be at least equal to New South Wales awards and legislation, and we are providing the right to unfair dismissal protection. We have announced proposals to permit the Industrial Relations Commission to provide alternative dispute resolution services to employees and employers in the Federal system, and to allow the Industrial Relations Commission to sit jointly with the industrial tribunals of other States. This will enable the efficient and comprehensive consideration of evidence in wage and other test cases and make it easier for the States to fill the gap left by the Federal Government's removal of fairness as a consideration in setting wages and conditions in WorkChoices.

We established the Standing Committee on Social Issues inquiry into the impact of the Federal Government's WorkChoices legislation on the people of New South Wales. We have established the Fair Go Advisory Service to help employees in New South Wales understand the effect of Federal laws on their pay and conditions, and we have advised them about their choices. This service has assisted over 110,000 callers since the WorkChoices legislation came into effect. We have developed the Compare What's Fair web site, thus assisting 12,000 workers since March 2006 to assess the terms of an Australian workplace agreement against the fair and reasonable standards of the relevant State award.

The New South Wales Government is supporting a $20 wage case in the New South Wales State wage case 2006 in opposing the Federal Government's attempt to have the matter delayed until after the Australian Fair Pay Commission determination. The benefit of the decision by the New South Wales Industrial Relations Commission to increase rates of pay by $20 has already been received by thousands of workers in this State. The New South Wales Government has opposed the Federal Government's Independent Contractors Bill 2006, which is another attempt by the Howard Government to remove legitimate employment protection by overriding State laws.

We are seeking the urgent commencement of the improved parental and family leave test case standards set in the New South Wales family provisions test case in August 2005 to ensure that award entitlements were secured prior to the commencement of WorkChoices. Let us look at what the New South Wales Opposition plans to do. The honourable member for Vaucluse, Peter Debnam, is quoted as being in lockstep with the Federal Government on WorkChoices. He has stated:

> … we will transfer the bulk of our IR powers to Canberra.
>
> There is no point for the Iemma Government to continue to hold on to the New South Wales industrial relations system except for public sector.

That is an Opposition commitment. Peter Debnam's blind followers on the benches opposite have silently fallen into line behind him. They support these direct attacks on the rights of working people in this State. They vilify the union movement, degrade the conditions of workers, and trample on the concepts of a fair and equitable Australian society. On 16 June 2006 Peter Debnam said on *Stateline*:

> The High Court has confirmed that this is a Federal Government matter and that New South Wales has no meaningful role to play in that area.

He has not yet recanted. The Opposition's position on WorkChoices is inconsistent and does not make sense. If Opposition members were genuine about protecting our public sector workers they would lobby their Federal counterparts to have WorkChoices thrown out, but we know they never lobby the Federal Government to do anything advantageous for the people of New South Wales—the people they purport to represent. We also know that also applies in relation to New South Wales getting a fair share of the GST intake. Everyone in our work force deserves the real protection of the fair and proven New South Wales industrial relations system, not just a favoured few.

If we are to believe Opposition members, they will protect front-line public servants from the impact of WorkChoices, but they will not do that for the vast majority of working people in New South Wales. Peter Debnam's conservative colleagues in other States have said no to WorkChoices, but he does not have the guts to stand up to his political masters in Canberra. Perhaps his brief and less than illustrious service in the Royal Australian Navy left him used to taking orders and not questioning them. What a lacklustre lickspittle and servile sub-lieutenant! If the honourable member for Vaucluse had any compassion he would stand up to John Howard and say, "We are not going to cop your laws; we will maintain the fair New South Wales industrial relations system that has served the workers and employers well for more than 100 years."

I draw honourable members' attention to the fact that this is the view not just of the New South Wales Government, the Australian Labor Party or even the trade union movement, but of a range of people in society, from religious organisations to community groups, who understand the devastating effect that WorkChoices will have, and is having, on the working people of this State and the whole of Australia. I refer honourable members to a very interesting speech that was delivered on 3 October 2006 entitled "Australian Labour Law After the WorkChoices Avalanche: Developing An Employment Law for Our Children". The speech was delivered by Ron McCallum, AO, from Blake Dawson Waldron. He is a professor of industrial law and the Dean of Law at the University of Sydney. He delivered the speech as part of the Julian Small Lecture series, which is part of the speaking program of the Law Society of New South Wales. I will highlight a couple of key points from his lengthy speech. Mr McCallum stated:

> … the Work Choices laws have diminished the rights of employees especially by narrowing the safety net of minimum terms and conditions of employment and through the taking away of unfair termination rights from many workers. In my opinion, the Work Choices laws elevate managerial prerogatives to new heights over and above fair outcomes.

Ron McCallum is not a stooge of the Labor Party or the union movement. He is a well-respected professor of law and an eminent member of the legal profession in Sydney. He concluded:

> I have argued that these new laws are not sustainable for very long. In fact, I have suggested that at the very least they will be changed and softened within six to eight years. This is because of strong opposition by State and Territory governments, the

> overly prescriptive nature of these laws, the failure of many employers to engage with Work Choices, the High Court challenge to the new scheme, and the fact that the collective bargaining features of the scheme contravene international labour law.

Do not take my word for it: take the word of a professor of law and eminent member of the legal community in Sydney.

The Hon. Rick Colless: A member of the left-wing academic community, no doubt.

The Hon. AMANDA FAZIO: I acknowledge the interjection by the Hon. Rick Colless, labelling Professor Ron McCallum a left-wing intellectual. The Federal Government pushed the WorkChoices regime and is now forcing Australians to sign Australian workplace agreements. John Howard and his motley crew in Canberra even had the hide to celebrate the destruction of Australian values. In a sad milestone for the working people of this country, John Howard celebrated the signing of the one-millionth Australian workplace agreement. This was really a celebration of the creation of Howard's anti-family, sign-it-or-else workplace culture. The Federal Government claims to offer choice to workers. That choice is simple: Do what the boss says or lose your job.

WorkChoices undermines more than 100 years of careful negotiation between employers, employees and unions, assisted by the intervention of different courts and parliaments, to develop an industrial relations system in this country that is fair, that delivers for workers, that is manageable for bosses and that makes sure that workplaces are safe, that junior employees are not exploited and that people have the right to bargain collectively and to stand up and say no when they are offered an unfair deal. Yet the Federal Government celebrated the signing of the one-millionth Australian workplace agreement. Let us consider what is in these workplace agreements. Some 64 per cent do not retain leave loading, 63 per cent do not retain penalty rates, 52 per cent do not retain shift loadings, 44 per cent do not retain substitute public holidays, 41 per cent do not retain gazetted public holidays and 27 per cent remove public holiday pay.

I will give honourable members an example of life under WorkChoices. The other week I was visiting some friends. Their son, whom I have known since he was about 14 years old, is now married and has a three-month-old baby. He and his wife have purchased a home unit and they have a mortgage. He works in the construction industry. He said, "Amanda, why can't you do something? Why can't the Labor Party in Canberra do something to stop WorkChoices?" He said that his bosses had taken away the workers' site allowance—that $100 a week has gone. This young working family are working hard and struggling to establish themselves. According to John Howard's vision for families in Australia, they are doing everything they should be doing. For instance, they have bought a home. They are not doing quite what Peter said they should: they have had only one baby, not two for the country and one for Peter Costello—I think they would choke before they managed that—but they are doing their very best. What has WorkChoices delivered for them? My friend's son is immediately $100 worse off.

He then told me that union officials cannot come on site when there are problems. I asked, "Fadi, what problems have you got?" He replied, "We've got one toilet on the whole site and we get in trouble if we take a break to use it." He told me that there is only one water bubbler on the site—it gets pretty hot working in construction in summer—that all workers have to use. I asked why they did not install another water bubbler on the other side of the site. That makes sense: less productivity would be lost. He said, "They're just being a bit bloody-minded about it. We asked whether the union could come in and look at it because we thought it might be an occupational health and safety matter and we were told that under WorkChoices the union cannot come on site." That is typical of the stupid stuff that is going on under John Howard's WorkChoices regime.

WorkChoices does not offer choice to workers. WorkChoices is about the longstanding grudge match between John Howard and the Federal Coalition and the labour movement and the Australian Labor Party. The Federal Government has so few ethics that it is prepared to squeeze and crush the working people of Australia in an attempt to destroy the organised labour movement in this country. The Howard Government does not care what it does to young families. It does not care that the young family I mentioned will probably have to move into the home of an in-law and either sell or rent their home because they cannot afford the mortgage. WorkChoices has made their home unaffordable. That is absolutely outrageous.

I am very proud of what the New South Wales Government has done to try to ensure that we protect, as best we can, the workers of this State. I support wholeheartedly the motion moved by my colleague the Hon. Christine Robertson. I believe the amendment moved by Ms Lee Rhiannon does not sheet home adequately the fact that this Government is fighting for workers' rights, but has run into a brick wall when it

comes to eliciting a reasonable response from the Howard Government in Canberra. I urge honourable members to consider this matter carefully. The story of the young construction worker is a common one.

If Opposition members were to talk to people outside their party meetings, particularly young people who are trying to take a step up in society, they would find that it is happening everywhere. Worse still, not only are people losing their employment rights and entitlements and bringing home less pay for doing the same work, but the Government that promised them it would manage the economy better and ensure that interest rates did not increase has delivered interest rate rises—and there is another one on the horizon. Talk about squeezing the working people of this country unfairly. It is an absolute outrage!

The Hon. Charlie Lynn: Not 21 per cent, Mandy.

The Hon. AMANDA FAZIO: I acknowledge the interjection from the Hon. Charlie Lynn, who implies that the rate rises have been only small. They may seem small to people on our sort of income but to a struggling worker who has lost $100 from his pay and has suffered two interest rate rises, with another on the way—

The Hon. Charlie Lynn: Point of order: I think I have been misquoted. I interjected to say that interest rates were not at 21 per cent.

The DEPUTY-PRESIDENT (The Hon. Greg Donnelly): Order! There is no point of order.

The Hon. AMANDA FAZIO: It is no wonder the working people of this country feel they have been abandoned by the Federal Government. I doubt very much whether these days we will find people bandying around the term "honest Johnny" as they used to, because at the moment they feel like they are getting anything but honesty out of the Federal Government. Honourable members should remember that WorkChoices was not a central plank of the Federal Government's election policy at the last election. It was an ideologically driven change that was brought in to suit its long-term need to try to rub out the organised labour movement in this country. It did not have a mandate. Fair enough, we can whinge when we do not like something a government has a mandate to do, but for a government to do something like this is absolutely outrageous, it is duplicitous and it shows an absolute lack of regard for all working people in this country. For that reason, I urge all honourable members to support the very sensible motion moved by my colleague the Hon. Christine Robertson.

The Hon. PETER PRIMROSE [3.10 p.m.]: A number of honourable members wish to speak to this motion, and I simply indicate my support for it. I will be brief and make a couple of points. My first point is that I urge people to read this debate in *Hansard* and take note of the views of the Coalition in New South Wales. I urge people to take note of the comments of the Hon. Greg Pearce, and take note of the various interjections by members of The Nationals and the Liberal Party. They should take note of their attitude: that is exactly what the Coalition will do if it takes the Treasury benches on 24 March 2007.

The Hon. Rick Colless: A big fear campaign now "if it takes the Treasury benches".

The Hon. PETER PRIMROSE: I acknowledge the interjection of the Deputy Leader of The Nationals, who may seek to withdraw from the position he has taken, but I urge people in this State to trust him, believe what he is saying and well and truly believe that The Nationals and the Liberal Party will hand over our industrial relations system to their lord and masters in Canberra.

The Hon. Rick Colless: I just think it is a fear campaign.

The Hon. PETER PRIMROSE: I acknowledge again that the Deputy Leader of The Nationals believes that I am conducting a fear campaign because I am urging people to believe that what he says is true. If the Coalition wins the election next year, it will do what it says. I urge people to believe that the Hon. Rick Colless is an honest man and will do what he says: he will implement Coalition policy if it wins government. I believe that the message has to go out that the Coalition will do what it says it will do; there is no pretence and it is not kidding. If the Coalition wins the next election it will do what it says it will do. That is not a threat; it is simply a statement of fact. I would like to believe it is wrong, but I genuinely believe it. I am dreadfully fearful that honourable people such as the Hon. David Clarke, the Hon. Rick Colless and the Hon. Charlie Lynn are telling the truth when they say what they will do in relation to WorkChoices. I will read correspondence I have received from a number of workers who are presently engaged in a peaceful protest outside their workplace as a result of WorkChoices. The workers say:

> Our Rights at Work Are Worth Fighting For
>
> We are workers employed at the Thompson Roller Shutters factory at Turella. We manufacture roller doors for homes like your's.
>
> We have asked our employer to negotiate with us about a new collective agreement that guarantees our entitlements—long service leave, redundancy pay, and annual leave.
>
> He has refused to talk to us about this.
>
> But he has offered us AWAs [Australian Workplace Agreements]. We do not want to sign AWAs.
>
> We want to keep our Union Agreement.
>
> Many of us have worked at this company for up to 20 years.
>
> We have families and we have mortgages—just like you.
>
> We want to be able to give our families some long term financial security. We are concerned that if the company closes, we will be out of work and left with nothing to support our families.
>
> If you would like to discuss this issue with the company, please contact our employers, Peter and Anne McDonogh …
>
> ***Thank you for taking the time to read this note from the workers at Thompson Roller Shutters and our families.***

This is not an isolated incident, it is happening everywhere. I reiterate that I urge people to believe what the Coalition will do in relation to WorkChoices, and I move:

> That the question be amended by inserting after paragraph (d):
>
> (e) congratulates the working people of New South Wales who have stood up against the extremist laws of the Federal Government.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.15 p.m.]: I was not going speak to this motion but I was horrified and offended by the simplistic analysis of the Hon. Greg Pearce, who characterised unions as leaches that never do any work. The fact is that ants cannot negotiate with elephants, and very powerful corporations simply tell prospective employees what wages they will get if they want the job. I believe that union power should be used in the interests of workers rather than mis-used as an alternative power basis for some sort of revolution; but, by the same token, without unions and collective bargaining, workers cannot be guaranteed to get a good deal.

The other element in the contribution of the Hon. Greg Pearce was the difference in prosperity in Australia under the Australian Labor Party and under the Coalition, which has been a theme that the Coalition has continually referred to. Obviously there was a crisis under the Labor Party. Under the Coalition, Australia has been relatively prosperous with a laissez faire economy. However, there has been a big decrease in manufactured goods exported and a big increase in commodities. There has also been a big increase in selling off the farm due to the lack of stringency of Foreign Investment Review guidelines.

The world economy has boomed on the back of commodity demand from China and India, and the cheap manufactured goods that come out of those low-wage countries. To simply say that a lot of jobs have been created is also an interesting statistic. To determine whether lowering wages really improves the economy, on Friday 28 July 2006 the Standing Committee on Social Issues conducted a hearing into the WorkChoices legislation and heard the evidence of two academic experts, John Buchanan and Chris Briggs from the University of Sydney. In relation to jobs that have been created they said:

> … in the US today 28 per cent of the work force is employed at an hourly rate that could not keep a family of four out of poverty if the breadwinner worked 40 hours a week. That is 28 per cent—more than one worker in four. The percentage went up over the 1990s when the US had the strongest growth it has had in a generation. These are not academic arguments, these are actual facts on what the structure of the US economy is. The New Zealanders have had a similar sort of experience and there is a public debate in New Zealand now on how to get themselves out of the low-wage trap …
>
> New Zealand's productivity rates used to more or less track Australia's for a couple of decades until around about 1990 when it introduced the Employment Contracts Act. It flat-lined after that and now it has the second lowest productivity levels in the OECD, just ahead of Portugal and it is locked in this sort of low wage, low productivity cycle. Low productivity means there is no capacity to increase wages and you get this sort of cheap labour, low value added economy …
>
> If you make labour sufficiently cheap and disposable then it removes a lot of incentive to make it more productive and what is more you set up competition to occur on the basis of the cheapening of labour, rather than making it more productive. Then the firms that would actually like to make a longer term investment in things like skills, which is required to get a return back, they

> lose that capacity because the competitor down the road has simply cut their costs by removing overtime, penalty rates and so on and you either follow suit or you get out of the market because they have jumped a march on you.

That is the reality of WorkChoices—the working poor have extra jobs, but what sorts of jobs? They actually damage the Australian economy. I recommend that honourable members read the evidence of these top-line economists who made some very pertinent comments about mistaking industry policy for industrial relations policy, which they said was completely different. The countries that have the best social equity also often have the best growth rates because the country is working as one to determine how to increase jobs and industry, and not create simply a "them" and "us" philosophy.

The shootings in America in Columbine were the basis for the movie *Bowling for Columbine*, by Michael Moore. Interestingly, the mother of the boy who was involved in the shooting had to travel for hours and hours to get to a really low-paid job miles from where she lived. She worked incredible hours. So the boy was unsupervised and consequently fairly demoralised. That, it was suggested, led to the shooting. Dr Buchanan commented:

> I think the OECD studies, the latest ones that have been released on the employment outlook, have basically shown that IR systems do not have an effect on most macroeconomic variables except distribution of equity. There are a number of ways to skin a cat. You can get high productivity growth, you can get high output growth, you can get high employment with either a market-based or an interventionist system. The one thing where unions and IR systems make a difference is in the level of the inequality.

He is specifically saying that making labour cheaper, lowering wages and making it tough for the people at the bottom does not necessarily help the economy. I asked him about social equity, and he said:

> There is big literature on that. I mean the social policy literature has shown when you look back over the past couple of hundred years there is a very strong relationship between systems of social protection and social cohesion. So you can maintain social cohesion through high labour standards and active welfare or you can maintain social cohesion through the criminal justice system. Where you reduce social protection through the social welfare system or through reduced labour standards the criminal justice system picks up the slack. So in the US a large number of adult males are incarcerated in the prison system. So the US does not have a long-term unemployment problem; it just calls them inmates. There is quite a lot of literature on that point.
>
> A group of American labour market economists examined the question of how it impacts in fact on comparison of unemployment rates and I think the ratio between long-term unemployment and the incarcerated population was as high as 1:3 in the US and it ranged from 1:20 and 1:50 across different European States. The conclusion was essentially European countries put people in welfare that America puts them in the prison system. … the populations of low-skilled males … tend to end up in prison …

He went on to say there was a long history of incarceration of low-paid males, adding:

> If you go back to the Industrial Revolution vagrants were handled through things called "workhouses" and as you look back from the twenty-first century it is a little hard to pick whether a workhouse is a prison or a social policy institution.

That is the end point of WorkChoices. People are revealing as myth that this legislation will help our economy. The key argument in favour of WorkChoices is the economy. Yes, it is tough on the people at the bottom, although presumably they all magically negotiate good deals. Statistics show that they cannot, do not and will not be able to in future. There is no doubt about those statistics. As far as a deregulated economy is concerned, Dr Buchanan commented:

> Chris and I do not like the expression "deregulation". I mean WorkChoices is 700 pages long and the regulations are 300 pages. It is not actual deregulation. This is actually very deliberate regulation designed to lower labour standards. It is more important to define what is actually going on. This is an attack on publicly defined labour standards. The legacy of the Howard Government will be to weaken Australia's standing as a civilised nation as defined by labour standards. So it is not whether you deregulate or not regulate, what we are seeing is a shift to market forms of regulation and highly proscriptive forms of market regulations. And a lot of employers are very unhappy because it is not the way they want to run their businesses. They are being told how they will do things.

This motion is important. The Howard Government's legacy will be increased social inequity in Australia. That will be reflected in hugely increased levels of social inequity. I think that will lead to the harbouring of resentment and bitterness, and that will increase the gaol population, and we will have a far less harmonious society. All that must happen for all those events to occur much more quickly is a downturn in the world economy. That would show that these policies were not all that clever, and that all of the credit the Howard Government is claiming for how well the Australian economy is going is based on the fact that we are digging up our dirt and selling it to China. The legacy of WorkChoices will be extremely unfortunate. I support the motion.

The Hon. GREG DONNELLY [3.24 p.m.]: I am pleased to have the opportunity to contribute to the debate on this very important motion. I speak in favour of the motion moved by the Hon. Christine Robertson

and the amendment moved by the Hon. Peter Primrose. I do not support the amendment, as it stands, of Ms Lee Rhiannon. In making my contribution, rather than making broad and general statements about WorkChoices—and there have been some broad and general statements made in this debate—I thought it would be instructive to give an example to demonstrate how WorkChoices operates in practice.

Much has been said about how WorkChoices can work in certain circumstances, but I think it is worthwhile to examine how WorkChoices has worked when introduced by a particular company, so that we can evaluate where the employees of the company now stand compared with where they stood prior to the introduction of this legislation. I thought I would comment on Australian workplace agreements introduced by the company Spotlight Pty Limited. Before I do so, I must say that I agree fully with the contribution of the Hon. Dr Arthur Chesterfield-Evans regarding the complexity of WorkChoices. I have brought into the Chamber a copy of the WorkChoices legislation and regulations to give honourable members a sense of the paradox of WorkChoices. On the one hand it deregulates the Australian labour market and has a fundamental contribution to make in that regard; on the other hand, the legislation runs to more than 700 pages, and the regulations exceed 300 pages.

The new Commonwealth legislation, including its regulations, governing industrial relations in Australia runs to more than a thousand pages. It is a cruel paradox because, whilst on the one hand it deregulates and provides minimum standards, on the other hand it is complex legislation. Under WorkChoices, corporations in Australia have to meet only five minimum entitlements that are required to be provided to their employees. So this is not an issue of a comprehensive workplace agreement with a set of detailed and prescribed wages and working conditions. The fact is that on and from 27 March this year, when WorkChoices commenced, employers were obliged to meet only the five minimum standards set out in the legislation.

I now come to the example of the operation of WorkChoices within the company Spotlight Pty Limited. This is not an insignificant company. It is a major retail company that trades in all States and Territories of the Commonwealth, has dozens of stores and some thousands of employees. It is interesting that it was among the first retail industry companies that got out of the box very quickly to introduce Australian workplace agreements once the new legislation commenced in March this year.

Honourable members will recall the significant amount of publicity that greeted the exposure of the introduction of these agreements, particularly as they impacted on employees at the store in Coffs Harbour, but also the manner in which Australian Workplace Agreements [AWAs] have been applied in other stores. The company has made "No choice, no bargaining" a condition of employment and all new employees are signed on to AWAs. With respect to existing employees, the company has been progressively speaking to those employees and discussing with them the prospect of signing the employees on to those agreements. As we saw in the example of the store in Coffs Harbour, it was only after an existing employee resisted the company's approach, spoke out, and got some publicity in the Coffs Harbour *Advocate*, and indeed on national television, that ultimately the company backed off and left the employee on award conditions.

As I said, all new employees in that company are signed to an AWA, a copy of which I have before me—and I will be happy to provide a copy to any member who requests it. I have done a comparative analysis between the rights and entitlements of employees in Spotlight Pty Limited's AWA and the relevant award that would apply to similar employees in New South Wales—the Shop Employees State Award. The analysis has revealed the significant deficiencies that now operate inside that company to the significant disadvantage of the employees. I wish to put on the record some examples of the deficiencies that apply, to give honourable members a sense of what the differences are between the AWA and the relevant award entitlements.

The obvious thing that strikes one looking at the AWA and the award upfront is the difference in the base rate of pay for a full-time adult employee, and how that translates into an hourly rate of pay. For a full-time adult employee who commences with Spotlight Pty Limited in New South Wales today the weekly rate of pay is $543.40, but if that person were to be employed under the award that currently operates, the rate of pay would be $562.80. So there is a major difference in the hourly rate of pay, to say nothing about a number of the conditions that now no longer apply. Next I want to refer to the complete stripping of penalty rates from the entitlements of employees. Honourable members well understand that penalty rates have been provided to employees for good reason. I think it is reasonable to expect that if one is working a nightshift, say, starting at 11 o'clock at night and working through until six o'clock the following morning, one would receive a higher hourly rate of pay than if one were working during the day.

But under the Spotlight AWA there is penalty no provision at all in regard to the hourly rate that is payable to employees. In other words, employees work around the clock and every hour is rated as an ordinary

hour. As a result, employees have a set hourly rate and there is no payment of any penalty rate. It is worth noting that a number of award allowances for people who are first aiders in the store and employees, for example, who would otherwise be entitled to a meal allowance and a uniform allowance, have been all stripped out. All the allowances have disappeared under the AWA except an entitlement for a single allowance for an employee using a vehicle if he or she is instructed by the employer to work at another store. But the company could not get even that right. The allowance for use of a vehicle in the AWA, depending on the size of the vehicle used, is up to 7¢ per kilometre less than would be provided for in the award.

It is interesting to note that under the AWA, employees serve a probationary period of six months, whereas under the award employees are required to serve a probationary period of only one month. One of the most profound areas of change in the AWA relates to the disappearance of the rostering rights that employees enjoyed under the award. For example, under the award certain employees would have their hours regularly rostered. They would know that they would be starting and finishing work at a certain time, that they would be working on certain days and would have certain weekends off, that they would have a rostered day off, that there would be a maximum number of consecutive days that they would work before having time off and that they could only be required to start work once on any day. Basically, all of those rostering rights have been stripped out and what is left is a very simple rostering arrangement in respect of which the employer has discretion. The employer is essentially able to roster the employee at will.

Honourable members might not regard it as a big deal that employers should have pretty much most of the prerogative and be able to roster employees when they wish to do so, but the fact is that people have lives and important responsibilities outside work, family responsibilities and other matters, and it is completely unreasonable to deny people reasonable rostering arrangements so that they can organise their lives outside work. Those rostering conditions have now disappeared as a result of the introduction of AWAs, which in turn came about as a result of the introduction of WorkChoices. Part-time employees of Spotlight Pty Limited, who under the award had an entitlement to a number of basic standards, such as a minimum number of hours—when they came into work they would have a minimum and maximum number of hours that they could be rostered to work each week—and who could not be required to work split shifts, no longer have such entitlements.

Those entitlements have been disembowelled from the award, and the AWA contains very minimum entitlements when it comes to the rights of part-time employees. Interestingly, the AWA does not specifically provide for casual employees and the loading that would be paid to such employees. But, logically, why would employers need casual employees and casual loadings when they can have part-time employees who can be rostered pretty much at will with liberal rostering arrangements that provide very little certainty for employees? In a very real sense employers do not need to have casual employees; they can employ most of their workers on a part-time basis, given the huge flexibility they have, pay them a permanent rate and avoid paying a casual loading.

Overtime is not paid under Australian Workplace Agreements. All hours worked are ordinary hours. If an employee is asked to work extra hours and does so, there is no provision for payment of time and a half or double time, which are traditional overtime penalty rates. They, too, have been stripped from employees. I want to make a couple of comments about public holidays. First, if a person is required to work on a public holiday—which clearly an employee can be required to do under Australian Workplace Agreements—no public holiday penalty rate is paid to that person. The public holiday penalty rates that have traditionally applied have disappeared. An hour worked on a public holiday has the same value as an hour worked on any other day of the week. And, as I said earlier, that hour could be worked at two o'clock in the morning or at two o'clock in the afternoon; all hours are rated at the single rate.

Of interest also with regard to public holidays is the situation that applies to employees on a variable roster, which means employees who do not work the same days each and every week. Under the award, if an employee's rostered day off fell on a public holiday, that employee would receive the benefit of that day in another form. In other words, the employee would get a day in lieu of the day he or she missed out on. Under the AWA there is no such entitlement: if an employee does not work on a public holiday, he or she obviously has the day off and it is not paid for it. And that is the end of that! There is no compensation for a day in lieu, as is provided for in the Shop Employees State Award.

I note also that under the Spotlight Pty Limited AWA the company has abolished the right to a rest pause. That is quite extraordinary. Most people in this Chamber would not think of working for more than four hours without having a cup of tea or a glass of water. Indeed, for one reason or another most of us would have a cup of tea or a glass of water on an almost hourly basis. Under an award, employees had the right have a tea

break after working for four hours. Under Australian workplace agreements [AWAs], Spotlight, for reasons that can be described only as bloody-minded, has removed the rest pause, so workers in Spotlight work hour after hour without a break. The only break they have is after having worked five hours and that is for a meal break. The rest break has been completely abolished by the company.

The annual leave loading has also been abolished. Spotlight moved very quickly to abolish that loading. The 17.5 per cent holiday leave loading, which was paid to award employees, will not be paid to new employees under the AWAs. A significant reduction in family leave and personal leave entitlements has also occurred. People who have seen an AWA know that it is an obvious and major disadvantage for employees. Bereavement leave has been reduced. A number of other leave entitlements, such as blood donor leave, jury service leave and parental leave, have been significantly reduced as well. A number of other entitlements relating to redundancy payments, the manner of calculating people's wages and notice entitlements relating to termination have also been reduced.

The details I have given provide a snapshot of the significant disadvantage being suffered by employees under WorkChoices. The Spotlight example is typical of thousands and thousands of tragic cases of workers being disadvantaged by the new Commonwealth legislation. The Nationals and the Liberal Party are in a state of denial about the impact of WorkChoices. They are hoping that people will get over it; they think it is just a matter of time. But the fact of the matter is that, as time passes, more and more employees will become aware of the bitter impact of WorkChoices and will be counting the days until the State and Federal elections next year when they can make clear to The Nationals and the Liberal Party exactly what they think about WorkChoices.

Mr IAN COHEN [3.42 p.m.]: I congratulate the Hon. Christine Robertson on moving this very good motion and I congratulate Ms Lee Rhiannon on moving an amendment to that motion on behalf of the Greens. WorkChoices is certainly an ugly piece of legislation from the Howard Government, and is one more reason why the Coalition must be defeated federally. Greens Senator Rachel Siewert has spoken on many occasions about the dangers of the industrial relations plans of the Federal Government. As well as challenging the Federal Government on WorkChoices, Senator Siewert has helped to expose the dangers of the Building and Construction Industry Improvement Act.

Few people know how serious the legislation really is. It not only undermines working conditions that have been won over many decades but also strips away key legal rights. I was shocked to learn that this Act removes an individual's right to remain silent when questioned. I congratulate Senator Siewert on moving in the Federal Parliament to disallow the regulation covering the Australian Building and Construction Commission [ABBC]. The Greens have taken this stand because the ABCC was given clearly coercive powers. Senator Siewert has spoken in the Senate about workers' families being intimidated by burly inspectors who appear to wait until a worker has set off for work before serving the worker's wife or partner with a notice. The inspectors have made it clear to the wives and partners of workers in a pointed and heavy-handed manner that they are liable to a large fine or even a gaol term if they do not co-operate fully.

Apprentices and migrant workers, for whom English is a second language in many cases, are being picked on, intimidated and tricked into answering questions about being informed of their legal rights. Senator Siewert also has given details of reports that workers are being invited to have an informal conversation with an ABCC inspector only to learn that the discussion has been recorded without their knowledge or consent. Workers are being separated from their counsel in ABCC hearings and are seated tightly between two burly inspectors. They are also being badgered into answering questions. Many people have described the hearing process of the ABCC as a star chamber in which the deputy commissioner, who sits beneath the Commonwealth coat of arms, claims imperiously that the regulations give him the right to determine who can or cannot represent a worker, and how workers should fulfil their moral, ethical and legal obligations.

One of the worrying features of the Building and Construction Industry Improvement Act and its regulations is the manner in which it applies retrospectivity. Ordinary Australian workers, who front this star chamber with no right to silence and a threat of six months gaol, are being further threatened with prosecution for having taken part in, or possibly for having knowledge of, actions that were legal at the time they purportedly occurred. Let me run that by the House again. Workers have no right to silence, limited access to bona fide legal representation, and the threat of six months gaol for being involved in, or possibly having knowledge of, industrial actions that were not illegal at the time they are said to have occurred. The workers are being denied basic democratic rights to procedural fairness and natural justice that all of us take for granted. Workers who have not been charged with anything or who may be suspected of knowing about an offence

committed by someone else are being treated with fewer rights than someone who has committed a very serious criminal offence. This has implications for all Australians. Indeed, the Federal Government's laws are deeply un-Australian.

While the Greens have common ground with Labor in opposing the WorkChoices regime, we remind Labor that in recent years it co-operated with the Coalition in allowing a disturbing number of government agencies to be given extensive powers that impinge on some of the basic rights and freedoms of Australian citizens. It is quite clear that there are reasons for condemning the Federal Government, but we should also consider what is happening in industrial workplaces in New South Wales. What about protecting workers in our own workplace? New South Wales Treasury has cut $4.1 million from the New South Wales Parliament's budget. This is in addition to the $1.4 million that has been cut from the catering budget. The $1.4 million cut to the Parliament's budget is made up as follows: $572,000 as a 1 per cent global savings target, $496,000 in a budget shortfall for 2005-06, and $372,000 as a rejection of a projected budget increase.

The $572,000 figure represents far more than the 1 per cent savings target that is being applied across the whole of the New South Wales public service. Because the members of Parliament component of the budget is protected from any cuts, a 1 per cent cut of the budget should be a cut of only $300,000. Therefore the global savings target that has been applied to the New South Wales Parliament is in fact closer to 2 per cent, which is almost double the target that has been applied to the rest of the public sector. Furthermore, budget shortfalls have generally been funded. There was no warning given that any budget shortfalls would not be funded this year. Therefore, Treasury's refusal to fund the $496,000 budget shortfall for 2005-06 is not reasonable. It is a refusal to pay for services that already have been provided.

These cuts are hurting the staff of the New South Wales Parliament. Morale is low. Staff who remain cannot be expected to take on the work of positions that have been cut. Therefore, members of this House will have to expect fewer services. I make a plea on behalf of the workers of this parliamentary workplace for the position to be reviewed. The Government should rethink its actions. As insufficient time remains to enable the Hon. Peter Breen to participate in this debate, I move the following amendment to Ms Lee Rhiannon's amendment:

That the question be amended by inserting at the end:

and

(f) calls on the Government to introduce human rights legislation providing for the right to reasonable remuneration for a person's labour and the right to work under safe and hygienic conditions.

In the time left to me in this debate I point out that the extension of ASIO's powers of detention and interrogation in the context of the war on terrorism perhaps has attracted most public attention, but not all of those types of powers have been conferred in such grave circumstances as the effort to combat terrorism. It seems in many cases that there has been little debate about the necessity and appropriateness of conferring such powers in the first place.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! Pursuant to standing orders I interrupt debate to allow the mover to speak in reply.

Mr IAN COHEN: I seek leave to have the debating time extended.

Leave not granted.

The Hon. CHRISTINE ROBERTSON [3.48 p.m.], in reply: I thank honourable members on both sides of the House for their passionate participation during debate on this motion. From all perspectives in relation to the Federal workplace laws, we heard passion: all honourable members demonstrated their support or otherwise for the Federal legislation on behalf of those they purport to represent. Even the Liberal-Nationals made sure that we know where they stand—they endorse this disgusting and regressive Federal law. They do not defend the many good and responsible employers in New South Wales but rather defend the rights of the unscrupulous who want the right to rip-off the work force. Unfortunately they pretend to represent Australian workers. Nonsense! From many speakers we heard the most appalling examples of the immoral use of this Federal law.

I endorse the amendment of Mr Ian Cohen, which was moved on behalf of the Hon. Peter Breen, and the amendment of the Hon. Peter Primrose. The amendment of Ms Lee Rhiannon carries a very positive

sentiment. The Iemma Government and Minister Della Bosca endorse the matters raised in the amendments, and they are being, or have been, addressed. State-owned corporations covered by the State-owned Corporations Act are not subject to ministerial control and operate at arm's length from government. The Premier has committed all State-owned corporations to a policy position that they will not attempt to use WorkChoices to undermine conditions of employment, or introduce individual Australian workplace agreements.

Notwithstanding that, to fill the gaps left by WorkChoices the New South Wales Government has encouraged State-owned corporations to make use of section 146A of the Industrial Relations Act 1996, which was introduced earlier this year to enable parties to agree to refer disputes to the New South Wales Industrial Relations Commission and for the commission to provide them with assistance to settle their disputes. Several State-owned corporations have taken that on and the Government has taken steps to ensure that employees of State-owned corporations do not suffer a reduction in their conditions of employment.

Under the Corporations (Commonwealth Powers) Act the New South Wales Parliament has referred powers to the Commonwealth relating to the formation of companies, corporate regulation and the regulation of financial services and products. Proclamation of that referral was gazetted on 23 June 2006. It is important to recognise that the Iemma Government explicitly excludes laws to regulate industrial relations. The New South Wales Government has no intention of amending or removing that exclusion. The Iemma Government has refused on several occasions to refer the State's industrial relations powers to the Federal Government.

The New South Wales Government is currently engaged in a review of its procurement policy with regard to requiring a successful tenderer for government services to pay its employees no less than the comparable rate for State award workers. Although we want to continue to get the best value for the taxpayers' dollar, we are also committed to maintaining a proper standard of procurement in relation to the employment of contractors, or principal contractors, of services and goods in New South Wales. The Government is almost in a position to complete that review. When finalised, the changes to our procurement policies will ensure that companies that tender for work with this Government treat their employees with fairness and decency.

For the Opposition to attempt to disassociate me from the fight against the Federal Government's ideological attack on the conditions and living standards of New South Wales workers is nothing short of bizarre. As much as it might shock some members opposite, I am a member of Country Labor and the fight against those disgraceful laws is integral to the welfare of the country and to anyone who is part of the Labor movement. We in the Labor movement care about the rights of working people and we care about social justice. I acknowledge the comment by one member in this debate that Labor does not own the fight. Indeed, we do not, and we understand we do not. If this is going to work, the whole community must become involved, and we are committed to the fight.

I am most surprised that The Nationals, who claim to represent the people of rural and regional Australia, have not once stood up to this attack on working conditions in New South Wales, because rural and regional areas will be affected just as badly, if not worse, than other areas of the State. Their silence shows yet again that they are toothless puppets of the Liberal Party and simply do not care about the country.

I was interested to hear the Hon. Greg Pearce attempt to dismiss my contribution by hiding behind the economic argument. But that argument has been largely discredited by methodologically sound research as the basis for these unfair laws. This is a fight about ideology. It is a fight about equal rights: the right to work; the right of workers to hang on to conditions they have fought for—and won—for well over a hundred years; the right of workers not to be sacked and then placed on an agreement that gives them less money—not so that more jobs can be created or the economy stimulated, but merely to allow a company to increase its profits at the expense of workers who are battling to make ends meet. If these are not ideals worth fighting for, I am not sure that anything is worth fighting for, because without them we are teetering on the brink of a very different, and far worse, society—certainly not an Australia that believes in a fair go, at any rate.

Objection was taken by one member to my suggestion that the behaviour of the Federal Government in ramming these laws through the Federal Parliament in a most undemocratic way was scurrilous. The honourable member claimed that there was nothing scurrilous about his local Federal member of Parliament. Well, the honourable member may be prepared to accept rapidly declining standards from his Federal member, but I can assure him that for most of the Australian people it is simply not good enough. That same Federal member has supported many scurrilous pieces of Howard Government legislation. For example, she supported the cutting of the national dental services plan and attached funding; massive funding cuts to universities and rising Higher Education Contribution Scheme charges; the $3 billion GST rip-off of New South Wales; a competition policy

that has no social or community indicators or consideration for wider needs; the destruction of child care, although the Federal Government is now trying to make amends in that regard with so-called presents; changes to welfare that can, and do, exclude those who can least cope with welfare removal and who need access to resources to provide food, housing, clothing, and so on; and the full sale of Telstra.

If all that is not enough, the Howard Government has overseen the greatest decline in the standards of government honesty and accountability in Australia's history. I am quite sure that I do not need to remind members about the various scandals—now too numerous to list without a very thick notepad!—for which the Federal Government has been responsible and for which its members have been absolved of blame. It would be laughable if anyone were to claim that the Howard Government and its members are anything but scurrilous! The fact remains that the Howard Government did not ever take the WorkChoices legislation to the Australian electorate, and it did not do so because it knew that if it did it would be voted out of office.

Instead, the Australian electorate has been fed scare campaign after scare campaign, all of which have turned out to be untrue. I instance the children overboard scandal and Howard's promise that interest rates would not rise. It is certainly scurrilous that the Federal Howard Government has turned Australia from the lucky country into the fearful country. The Hon. Catherine Cusack said that the Federal Government did not need to take those unfair laws to an election, as the Senate had voted on the laws and rejected them. I am not sure that the average Australian would follow in *Hansard* votes on individual pieces of legislation quite as closely as she would like to believe. But there can be no doubt that the people of Australia were not thinking about those laws when they cast their votes at the last election. It would be misleading to suggest that the previous rejection of such laws created a mandate. To do so would change the whole meaning of the word "mandate".

Interestingly, none of the members who spoke against the motion tried to defend other moves by the Howard Government to bypass accountability in the democratic process. There was no defence of changes drafted in secrecy, of the sham inquiry that was shut down before it commenced, of the premature shutting down of debate in the Federal Parliament, or of the fact that the regulations were released during the Commonwealth Games when the nation's gaze was elsewhere. I am pleased there was no defence of those actions: such actions are indefensible. That John Howard is now begging employers not to use laws that he has introduced shows just how bad the laws are—and he knows it! It says a lot about the Howard Government if it is prepared to introduce bad law to achieve its collective life's aim of destroying trade unions.

The Howard Government's latest response of providing legal advice to sacked workers is simply perverse. It has taken away the legal rights of workers and yet it wants to provide them with a legal opinion to help them exploit options that no longer exist. That will simply create a glut of claims and give the workers false hope. The laws have had an impact on business, as they drown in red tape. The mass of legislation is still being deciphered, and businesses simply do not know where they stand. What is more, the reporting requirements now place a huge administrative burden on all businesses.

I thank the members who acknowledged my passion about this issue. I come from the New England, in the north-west of the State, where these laws are biting hard. In just a few short months of their introduction we have witnessed unjustified and unexplained sackings, with workers being taken off contracts. Federal Minister Kevin Andrews has claimed that the Labor movement is running a misleading scare campaign, but what we have all witnessed shows that our claims are not misleading. I concede, however, that we are running a scare campaign—because the laws are really scary! Do we really want a return to the 1902 Masters and Servants Act? That is what the Coalition wants for the people of Australia and New South Wales.

Question—That the amendment of Ms Lee Rhiannon be agreed to—put.

The House divided.

Ayes, 5

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

Noes, 27

Mr Brown	Mr Jenkins	Ms Robertson
Ms Burnswoods	Mr Kelly	Ms Sharpe
Mr Catanzariti	Mr Lynn	Mr Tsang
Mr Clarke	Mr Macdonald	Mr West
Mr Donnelly	Mr Mason-Cox	Dr Wong
Ms Fazio	Reverend Dr Moyes	
Miss Gardiner	Reverend Nile	
Mr Gay	Mr Obeid	*Tellers,*
Ms Griffin	Mr Oldfield	Mr Harwin
Mr Hatzistergos	Mrs Pavey	Mr Primrose

Question resolved in the negative.

Amendment of Ms Lee Rhiannon negatived.

Amendment of the Hon. Peter Primrose agreed to.

Amendment of Mr Ian Cohen agreed to.

Motion as amended agreed to.

NATIONAL PARKS AND WILDLIFE AMENDMENT (NATIONAL PARKS VOLUNTEER SERVICE) BILL

Second Reading

Debate resumed from 28 September 2006.

The Hon. RICK COLLESS [4.07 p.m.]: I congratulate the Hon. Jon Jenkins on introducing the National Parks and Wildlife Amendment (National Parks Volunteer Service) Bill, which provides for the establishment and operation of the National Parks Volunteer Service through the insertion of a new division 3A in schedule 1 to the National Parks and Wildlife Act. It further specifies the functions that persons may perform and the employment status of people involved in this volunteer service. At present the National Parks and Wildlife Service is overstretched. It cannot effectively manage the land it has now, and that has been a problem for a long time.

When introducing the bill the Hon. Jon Jenkins said there was a need for the National Parks and Wildlife Service to respond with greater efficiency to the current difficulties posed by the problems of managing the vast area of land under its control. He further alluded to the two diametrically opposed views relating to the management of public land. The wilderness mentality believes that human impact on land management is evil and unnatural and must not occur in any way, shape or form. It also has the jaundiced view that any plant or animal that was not in Australia prior to the arrival of Europeans has no right to be here now. The alternative view to this is that humans are intrinsically linked to the land, and the health of the land is inextricably linked to the social success of communities and their economic survival.

The Hon. Jon Jenkins also spoke about the devastating effect of feral plants and animals on the environment and said it was highly unlikely they could ever be eradicated. I will expand on some of those points. It is possible to eradicate pest plants and animals by erecting vermin-proof fencing and by physically trapping animals in the enclosed area. Forward-thinking scientist and conservationist Dr John Wamsley, who was the architect of a privately funded conservation program called Earth Sanctuaries, fenced off some very large areas of Australia and was successful in eradicating many feral animals from the sanctuaries.

Reverend the Hon. Dr Gordon Moyes: The cat man.

The Hon. RICK COLLESS: As Reverend the Hon. Dr Gordon Moyes says, Dr Wamsley was known for wearing a cat-skin hat. He was a passionate trapper and shooter of cats and foxes because it was clear to him that those two imported species were largely responsible for the depletion of large numbers of small marsupial

mammals. Some years ago Dr Neil Byron of the Australian Productivity Commission presented a case study of Earth Sanctuaries to leaders of more than 29 countries. He stated:

> ESL's success in biodiversity conservation highlights the failures and deficiencies of our status quo approaches.
>
> A new millennium offers a new approach—South Australian based conservation company Earth Sanctuaries Limited (ESL) has adopted their own version of the 'triple bottom line' approach, focusing on three environmental outcomes.
>
> These are to:
>
> - save each of Australia's threatened mammal species in safe natural habitats
> - neutralise Australia's greenhouse gas emissions naturally with regrowth of properly managed rangeland and forest habitats
> - restore Australia's biodiversity to its pre-European state in each biogeographic region of Australia.

The well-known conservationist Dr David Bellamy described Earth Sanctuaries as a "role model for world conservation". John Wamsley was recognised internationally for his conservation efforts. A gentleman by the name of Michael De Alessi, who is Director of Natural Resource Policy at the Reason Public Policy Institute in Los Angeles, commented on public and private conservation in Australia. He pointed out:

> In recent decades, no mammal species has gone extinct in the wild—except in Australia.

He went on:

> Unlike many of Australia's extinctions over the past 200 years, small numbers of mainland mala still exist in captivity. But the fate of the mala underscores the major causes of extinction in Australia—alteration of the landscape and the introduction of non-native animals, especially cats, foxes and rabbits. Despite knowledge of the threats these non-native species pose, State and Federal government efforts to keep them in check have met with only limited success.

It is well recognised that the national park system has been unsuccessful in maintaining Australia's native flora and fauna. So John Wamsley set out to overcome that failure by taking matters into his own hands. He purchased a dilapidated dairy farm outside Adelaide in 1969 and proceeded to fence it off, remove the non-native species and reintroduce native species. He replicated that model on several different sites across Australia.

The second option for wise land management takes the view that all plants and animals are native to this planet and have utilised various distribution mediums over the millennia to move around it. More isolated continents such as Australia and Africa were able to resist that distribution more than other continents and thus maintain the integrity of some of their flora and fauna species. Australia, for example, has a preponderance of marsupial mammals that are not found in any great numbers anywhere else in the world. However, many of those species have ancestors elsewhere. That is the link and proof that millions of years ago, before the continents split, we came from the same place.

The basis of this philosophy is that species will move into an environment when conditions become suitable for its establishment, and will become extinct from that environment when conditions are no longer suitable for its reproduction. In a practical land management sense this means that the structure of the landscape can be manipulated by the management constraints imposed upon the land. So land managers can encourage various species into an environment, or force species to leave it. The philosophy promotes the idea that to have healthy land we must have healthy communities, and to have healthy communities we must have healthy people. The triple bottom line—the idea that environmental outcomes should be socially sound, environmentally sound, and economically sound—underpins that type of management, which was practised by a gentleman named Alan Savoury, who introduced holistic management programs.

There is currently a huge problem with the management of national parks, which are extremely underresourced. The Government has transferred to national parks large tracts of both private land and public land held as State forests, and this has not always been in the best interests of the environment. Many national parks have been incinerated by wildfires because native animal numbers have not increased sufficiently quickly to keep the vegetation regrowth under control. That is what used to happen in nature, and the process was assisted by Aboriginal controlled burning. John Wamsley solved this problem by keeping introduced grazing animals in the system until the number of native animals increased. He pursued the clear and definite objective of maintaining exotic or non-native grazing animals in his sanctuaries in order to prevent wildfires from developing.

Perhaps the National Parks and Wildlife Service should consider that option as a way of managing fuel loads more aggressively instead of simply fencing off areas, locking them up, offering no protection from feral

animals such as cats and foxes and then expecting native grazing animals—particularly the smaller ones—to compete. That just will not happen. I am pleased to support the National Parks and Wildlife Amendment (National Parks Volunteer Service) Bill, which was introduced by the Hon. Jon Jenkins, and I look forward to considering it later in Committee.

Reverend the Hon. Dr GORDON MOYES [4.18 p.m.]: The Christian Democratic Party supports the National Parks and Wildlife Amendment (National Parks Volunteer Service) Bill. The purpose of this bill is to amend the National Parks and Wildlife Act 1974 to provide for the establishment of a national parks volunteer service whose members are able to carry out functions conferred upon them by the Director General of the Department of Environment and Conservation.

I commend the Hon. Jon Jenkins for introducing this bill, and I hope that honourable members will vote for it. Honourable members may be aware that the United Nations declared 5 December 2006 as the International Day of Volunteers. This day acknowledges the social, economic and cultural benefits that come from volunteering. On 6 October 2005 Australia participated in the United Nations General Assembly meeting relating to the implementation of the International Day of Volunteers. Apart from re-emphasising the importance of voluntary action within communities, the assembly encouraged governments to establish partnerships with civil society in order to build up volunteer potential at the national level, given the important contribution that volunteerism makes to the fulfilment of the internationally agreed development goals, including those contained in the Millennium Declaration.

The importance of volunteering was highlighted and specific attention was also drawn to the fact that volunteering is still a largely untapped resource. National action is required to draw out this extensive and underutilised resource. Further, the final report of the International Conference on Volunteerism and the Millennium Development Goals stated that:

> Thinking Governments need to recognise the enormous contribution that volunteers and volunteer-involving organisations make and provide a supportive environment in which volunteerism can thrive … Volunteer activism … is especially important in addressing environmental issues given the fact that entrenched interests often make environmental conservation and regeneration challenging. Environmental volunteering should be active in advocating for structural change. On the other hand, volunteer involving organisations need to demonstrate willingness to cooperate with governments even if the political space is restricted. To be credible, these organisations need to be democratic, transparent, competent and accountable to their members and target groups as well as to the public at large.

Australia has joined with other like-minded countries in championing the cause of volunteering, recognising that vast potential lies in empowering individuals to make a difference in their communities through volunteering. And, volunteers not only add to the social wealth of their communities in a direct way but also add to the intrinsic social fabric and worth of a nation. The presence of volunteering is a hallmark of any healthy society that, where reasonable and possible, governments should encourage. Volunteering assists in building harmonious communities, and by binding people together through a common goal, increased social cohesiveness is achieved. Across Australia there are many not-for-profit organisations that benefit greatly from the help of volunteers.

From well-known entities such as Meals on Wheels and Greenpeace through to our many churches across Australia, volunteering has become the lifeblood of these types of organisations. I make mention that until I retired as Superintendent of Wesley Mission a few months ago, volunteering was a very important part of the work of Wesley Mission. I established a volunteer corps and saw it grow over the years until at the point of my resignation it had 4,200 trained, deployed, equipped, accountable, and appreciated volunteers. It saved us approximately $5 million every year in salaries for the work done by those volunteers.

It would be immensely difficult, almost impossible, for organisations like Wesley Mission to function without the steady and faithful contribution of volunteers. Not only that, events like Clean Up Australia Day could not possibly function without an army of volunteers. Volunteering is the crossroad between an apparent need and the motivation, passion and skill to meet that need, leading to immeasurable benefits for all involved.

The bill seeks to champion and encourage the cause of volunteering within our expansive national parks and other natural regions. One of the main needs identified by everyday Australians is the need for a dynamic and sustainable environment that is protected for future generations. Within this context there is arguably great scope for volunteerism. The NSW "State of the Environment 2003" report indicated that through surveys entitled "Who cares about the environment", the Environment Protection Authority identified that the community continues to rate protecting the environment as a high priority.

Those surveys also identified that the community is willing to adopt new actions to help achieve this, pointing to small but significant increases in environmentally responsible behaviour changes over the period surveyed as a strong indicator of this. The state of our environment continues to take a prominent place in the social conscience of our communities, as evidenced through these types of surveys and the public discussion at large.

With more than 600 parks and reserves in New South Wales, covering more than 7 per cent of the State and also, our extensive coastlines, there is a clear need for volunteering to heavily supplant maintenance and conservation undertaken by formally employed personnel. For example, in the United States of America, a similar need was met by the assistance of thousands of volunteers. As honourable members know, each year I lecture in the United States in a community that is surrounded by massive forests which were established under Franklin De Roosevelt's work-for-the-dole program in the Depression years. Today, those mature forests are absolutely magnificent. In Tennessee, Virginia, the Carolinas and so on there are hundreds of thousands of acres of mature forests. They now feel they cannot care for those forests without the work of volunteers. So earlier this month, 100,000 people across 50 States cleaned 1,100 forests during National Public Lands Day.

With more than 2.263 billion acres in the United States of America, of which one-third belongs to the public, the organisers of the National Public Lands Day saw that there was no way that the Government could tend to all this land without some help. Last year 13,000 people donated 380,000 hours of their time to participate in this day, and the number of volunteers grew to 100,000 this year. Clearly the potential of volunteering in the environment is on its way to becoming realised in the United States of America. And, thanks to the introduction of this bill by the Hon. Jon Jenkins there is some potential for it in Australia. It is my firm opinion that the bill has the potential to help to ignite the community spirit that is sorely needed in so many of our local communities.

Mr Ian Cohen: "Ignite" being the operative word.

Reverend the Hon. Dr GORDON MOYES: I note the interjection of Mr Ian Cohen, who must feel really put out that the Hon. Jon Jenkins has proposed this legislation rather than him. I look forward to his contribution and support for what should be a fundamental plank in the environmental policy he has advocated over the years. An apolitical volunteer program, working for the maintenance and conservation of national parks, provides clear potential to bring out the latent desire in people to help our natural environment. With increasing populations living in closed-set urban areas, many are failing to appreciate the depth and richness of our natural environment. This type of program will potentially lead them to a closer appreciation of their natural surroundings.

By equipping volunteers with necessary knowledge, honing their skill-set in an appropriate way and providing ongoing mentorship, volunteers can ably contribute to the maintenance and conservation of national parks. But even more importunately, it will build an entire generation of people with a different attitude towards our environment. Children, especially, are at risk of losing their connection to the natural world because of increased hours spent in social isolation in front of computers and televisions. Children in Australia watch television at levels amongst the highest in the world. And they love watching Bindy, and other nature programs when they could actually be out amongst nature itself.

It is thrilling to think of the potential for our children and young people to be exposed to, and involved in, a volunteer program of this nature. I found, for example, that grandparents and grandchildren can work together with a great deal of family support and encouragement on the Clean up Australia Day. For instance, it is envisaged that as part of their science or personal development studies at school, children and young people could be actively involved in maintaining and preserving a natural area in close proximity to their school. Even if children and young people do not participate during school time in this type of program, awareness and education regarding the work of the National Parks and Wildlife Service could sow seeds of environmental stewardship in their fertile minds.

A study by University of Wollongong students Melanie Randle and Sara Dolnicar, entitled "Environmental Volunteers: Are they driven by altruism and a strong feeling of regional identity?", identified that the strong regional attachment of environmental volunteers is an important strategic element for volunteering programs. The authors noted that if this could be increased—building loyalty and attachment to the local area—it could result in greater participation within the wider community in environmental programs. Thus, it is important that any program aimed at building a volunteer base is regionally focussed. Clearly, if a

volunteer base in schools can be regionally focussed, benefits will accrue due to the sense of local connection. Community will inevitably be built through this social interaction.

Interestingly, and in a similar vein, the Federal Government has spearheaded a program known as Green Corps, a youth development and environmental training program for young people aged between 17 and 20 years. The mandate of this program is to provide young people with the opportunity to volunteer their time and effort to conserve, preserve and restore Australia's natural environment and cultural heritage. Since the beginning of the program, more than 15,000 young Australians have joined Green Corps projects across Australia, more than 13 million trees have been planted, 7,000 kilometres of fencing has been built, and more than 5,000 kilometres of walking track has been constructed or maintained. We congratulate the Federal Government on this move.

Specifically, Green Corps teams are involved in on-ground works such as walking track construction, tree planting, seed collecting, weeding and fencing, habitat protection and restoration, and restoration activities for cultural heritage. This program is commendable. However, a Government-established program that is all inclusive, that is, not limited to young or unemployed persons, would be beneficial. The New South Wales Government, through the support of this bill, could make this a reality. A volunteer program on the scale of New South Wales would help to bridge the gap between older and younger generations.

With the onset of biobanking legislation, I cannot help but think of the potential opportunities that will be available to corporate citizens to sponsor conservation corps, if the instant bill passes this House. Sponsorship could take the form of the provision of uniforms, equipment or otherwise, for volunteers to undertake management and remediation of areas that exhibit conservation values similar to those in the area to be developed. I think, for example, of those organisations like Planet Ark and others that have worked with Clean Up Australia Day organisers, with the support of significant corporations providing uniforms, T-shirts and the like. The list of possible sponsorship opportunities is endless.

This is straightforward and commonsense legislation, the need of which has been carefully documented by the mover of the bill. Importantly, the Legislation Review Committee, which helped so many of us in our research on these issues, has not identified any issues under section 8A (1) (b) of the Legislation Review Act 1987. The Christian Democratic Party wholeheartedly commends this bill to the House.

The Hon. ROBERT BROWN [4.33 p.m.]: I support this truly excellent bill, the National Parks and Wildlife Amendment (National Parks Volunteer Service) Bill 2006, sponsored by the Hon. Jon Jenkins. I note the valuable contribution to the debate made by my colleague Reverend the Hon. Dr Gordon Moyes and the contribution to the debate made by the Opposition. Volunteering is such a really great idea that it is difficult to see how anybody, other than those who perhaps have a vested interest in protecting what they see as their bailiwick, could not support it. The bill amends the National Parks and Wildlife Act 1974 to provide for a volunteer service to augment the work force engaged in the thus far futile battle to manage this State's huge national park estate. Almost 10 million hectares are under the management of the National Parks and Wildlife Service.

The Hon. Robyn Parker: Locked up.

The Hon. ROBERT BROWN: Yes, locked up. I hesitated in using the word "management", but I thought it polite. The tasks envisaged by the bill are extensive, and include the control of feral animals, the control of weeds, bushfire hazard reduction, maintenance of tracks and trails, maintenance of facilities, removal of rubbish, and public relations work, including guiding. Whilst some of those tasks are of a technical nature that perhaps require a great deal of training, and some—such as bushfire hazard reductions—are carried out by other volunteer organisations, there is always room for volunteers to fill the gaps.

The concept of volunteering is not new to this State, or even this country. There are some brilliant examples. The successful 2000 Olympic Games in Sydney was an outstanding recent example of Australians pitching in to do their bit. And they will. All you have to do is ask. Volunteering is prevalent in other countries, and I note that the mover of the bill quoted references from the United States of America in his second reading speech. Reverend the Hon. Dr Gordon Moyes also referred to volunteer efforts in that country. Start to talk about the United States of America and you get some truly awe-inspiring statistics.

One of the most illuminating examples of volunteer efforts in the United States came to my notice in 1995 in a magazine advertisement in the 1995 centenary edition of the American magazine *Field and Stream*.

There was a full-page advertisement congratulating America's hunters and fishers on their huge contribution to the protection of wilderness in the United States of America. For the benefit of honourable members I quote some of the figures in the advertisement: 70 million American "sportsmen", as they call their hunters and fishers, spend over $US400 million per annum on wildlife management and habitat protection. Those programs have been going on since 1937 under Acts of their Federal Parliament called the Pittman-Robinson Act and the Dingall-Johnson Act. The refreshing aspect of this public expression of thanks—and I am sorry a Greens member is not in the House—was the fact that the advertisement had been placed by another centenary organisation, the Sierra Club. The Sierra Club, of course, is one of the oldest conservation organisations in the world—

The Hon. Jon Jenkins: The oldest.

The Hon. ROBERT BROWN: The oldest—and the model and predecessor of many others since. Some of the others that claim to have copied it, shall we say, have let the side down a bit. It is a shame that the so-called non-government conservation organisations in New South Wales, like the grandly-named Nature Conservation Council, or the National Parks Association, were not similarly prepared to acknowledge the work of volunteers, be they hunters or others. I acknowledge the work of volunteers, such as those doing bush regeneration, not necessarily just in national parks but in local council areas and elsewhere.

The support of volunteers, who spend their hours and their money on the preservation of biodiversity, is but one aspect of volunteering. Looking at the scene here in New South Wales, we see many successful government-sponsored groups of volunteers working for the betterment of the community, such as the 70,000 volunteers in the Rural Fire Service. They are well equipped and well trained, and they do a job that we could not do without. Or the 10,000 plus volunteers in the State Emergency Service, again volunteers who are well equipped and hopefully well resourced. Of course there is the rapidly growing group of volunteer conservation hunters identified under the Game and Feral Animal Control Act, numbering more than 7,000 at present, and growing, and the hundreds of fish volunteers who support the recreational fishing industry.

I have personal knowledge of the benefit that a volunteer group can have in a national park. For 15 years I was a shareholder in a 5,400-acre hunting and conservation property in south-east Queensland that abuts a 35,000-acre national park. When comparing the resources, both cash and labour, that were applied to both, with the National Parks and Wildlife Service, the private conservation effort per acre was more than six times that of the State effort. Why? It is because States have limited resources, we all acknowledge that, and it is a competition as to where the cash is spent. Should it be spent to employ more police officers or nurses, or should it be spent on bigger and less well-managed national parks? Feral goat control in a brush-tail wallaby colony is an example of a specific conservation project carried out on that property.

I bring to the attention of the House another example of practical environmental volunteering. On the far South Coast of New South Wales, Mr. Clyde Thomas and a group of volunteers from the Sapphire Coast Branch of the Australian Deer Association, are working with the local parks and forestry management in conservation work aimed at protecting the smoky grey mouse, and preserving habitat for the brown bandicoot and spotted quoll. That is in addition to rehabilitating his own conservation property. I might add that Mr Thomas is physically disabled; he is in a wheelchair. Despite his disabilities, Mr. Thomas takes an active part in feral animal control on his own properties with his colleagues from the Australian Deer Association.

For the benefit of the House I will relate a stunning recent example. In Victoria the hunting and conservation organisation Field and Game Australia has just concluded the purchase of a critical and degraded wetland near the mouth of the Latrobe River. The $1.1 million purchase will be the first major project for Field and Game Australia's Wetland Environment Task Force Public Fund. Field and Game Australia has a long and well-recognised involvement in practical, on-ground conservation over nearly 50 years—volunteers every one of them. In 1978, its predecessor, Victorian Field and Game, won the prestigious Victorian Conservation Prize for its work in protecting and rehabilitating wetlands.

The list of wetlands, many being Ramsar-listed sites, on which Victorian Field and Game has worked extensively includes Hirds and Johnsons Wetlands, Dowds Morass, Reedy Lake at Nagambie, Kanyapella Basin, Lake Borrie and Reedy Lake at Geelong. And now the purchase of a large parcel of about 1,930 acres of the Heart Morass wetlands on the lower Latrobe river floodplain near Sale has been finalised, with the contract of sale being signed between the vendors and Field and Game Australia. Partners in the project are the West Gippsland Catchment Management Authority, Watermark Incorporated and Field and Game Australia. Funding

for the project has come from the members and branches of Field and Game Australia, together with a substantial donation from the Hugh Williamson Foundation.

The Heart Morass is located at the mouth of the Latrobe River. It was settled in about 1841, but, like a lot of these wetlands, it has been drained, cleared and managed for beef and dairy production for more than a century. Approximately 400 hectares of the Heart Morass is currently in public ownership, managed by Parks Victoria as the Heart Morass State Game Reserve. The remaining areas of the Heart Morass are in private ownership under seven major private ownership parcels and W. E. T. has purchased three of those. That vision, to develop the Heart Morass wetland as an icon within Australia and internationally, should be applauded because it is an excellent example of volunteer commitment to conservation. I appreciate that the green non-government organisations and Greens colleagues in this House do not always see eye to eye with the Shooters Party, but I assure the members of this House that there are many more examples that demonstrate that hunters are interested in conservation.

Those are but a few examples only—and I apologise to all the hunting and conservation organisations that have not been mentioned—of why the efforts of volunteers should never be underestimated in any sphere, and particularly not by governments. In regard to the bill I ask the Government to consider my recommendation that it should not, by amending this bill out of existence, cast away the opportunity to utilise a brilliant idea. It is a very good idea that the Hon. Jon Jenkins has come up with and I hope the House will support it. Using organised volunteer groups to contribute to the future wellbeing of the huge New South Wales National Park Estate deserves the full support of the House. I commend the bill to the House.

Reverend the Hon. FRED NILE [4.44 p.m.]: The Christian Democratic Party supports the National Parks and Wildlife Amendment (National Parks Volunteer Service) Bill 2006. My contribution will be brief, but I wish to express concern that I have just received from the Minister for the Environment, Mr Debus, 11 amendments to the bill. The bill will establish a national parks volunteer service. That is a key aspect of the bill. In my view it is the purpose of the bill, but apparently the Government has decided to omit any reference to a national parks volunteer service and simply refer to "volunteers". That would change the whole concept of the bill.

I note that the Government indicated to the Hon. Jon Jenkins that it would support the bill, but we have finished up with just the veneer of the original bill. It is very disappointing. I hope, even now, that the Government will not proceed with the proposed amendments but will allow the bill to proceed in its original form. The bill makes it clear that the national parks volunteer service would be completely under the control of the department. The Government need not fear that a group of people would operate independently of the department. In fact, the volunteers have to be appointed by the Director General of the Department of Environment and Conservation. I urge the Government not to proceed with the amendments but to allow the passage of the bill in its original form.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.46 p.m.]: The Government commends the Hon. Jon Jenkins for his proposal, which recognises members of the community who contribute so much to the public good through their work as volunteers. While the Government accepts that some amendments to the National Parks and Wildlife Act to recognise the important role volunteers already play in park management are appropriate, it cannot support the bill in its current form. I will turn to the specific concerns of the Government in a moment. However, at the outset I stress that the Government does not see volunteer and community involvement in park management as displacing the Department of Environment and Conservation's paid work force. In short, we do not, and we will not, use volunteers to displace paid workers. The Government understands that that is not the intent of the Hon. Jon Jenkins, either.

Having said that, the Government is a strong supporter of community involvement in park management and conservation. Community involvement increases understanding, awareness and appreciation of nature, cultural heritage and parks, and the importance of conservation. It also increases community awareness of the challenges in conservation management, and encourages greater community ownership and responsibility for conserving the State's natural and cultural heritage. The Department of Environment and Conservation [DEC] has an extensive volunteer program, which has been operating for decades, covering a wide range of park management conservation projects.

In addition to its volunteering programs, DEC has many other partnership arrangements in which members of the community assist in achieving improved conservation and management outcomes. They include partnerships with Aboriginal communities, such as the Board of Management for Mutawintji National Park;

community participation on advisory committees, such as the Brigalow and Nandewar community conservation area committees; joint management programs with neighbours, such as the Brindabella and Wee Jasper Valleys Wild Dog Management Plan; joint research projects with universities; and the highly successful Discovery Program.

Volunteer projects need to be well planned, co-ordinated and supervised to optimise the satisfaction of volunteers and ensure the usefulness of their contribution. In managing volunteers, it is important to ensure that efforts are targeted to projects with the greatest conservation and social benefit, to protect the occupational health and safety of the volunteers and other members of the public, to be aware of training needs and provide training when appropriate, and to provide adequate supervision and guidance. The Department of Environment and Conservation [DEC] is currently reviewing its volunteer program with a view to expanding volunteering and promoting greater involvement in park management.

The Government is committed to removing red tape and over-regulation. One of the aims of the DEC's review of its volunteering program is to streamline and simplify the process. The procedures in the bill need to provide sufficient flexibility to enable DEC to expand its volunteer program and not discourage people from volunteering their services. The Government is not convinced that creating a formal statutory volunteer service will give DEC or the community the flexibility it needs to conduct an effective volunteer program. Some concern already has been expressed by unions representing park workers about this aspect of the bill. The Government therefore will propose that a statutory national park volunteer service not be created.

The list of activities provided in the bill also does not accurately reflect the broad range of activities that currently are undertaken by volunteers in parks and may constrain future programs. For example, some of the established volunteer activities, such as wildlife surveying and being a warden, are not on the proposed list. In addition, DEC's review of its volunteering program is identifying new options for volunteer involvement. A list implies that the activities on the list are to be given the highest priority, yet priorities will change over time. The list may lead to pressure to divert volunteers from unlisted high priority programs to other activities on the list. The Government therefore will propose that the list be removed. Instead, the Government will propose that either the DEC volunteers policy or the national parks and wildlife regulation contain a list of factors that need to be considered when determining appropriate activities for volunteers, including issues such as training, supervision and safety.

The Minister for the Environment has indicated that he will consult closely with the Hon. Jon Jenkins about this issue, as well as with other key stakeholders including the Public Service Association and the Australian Workers Union. For obvious health and safety reasons, there are some high-risk activities that are not appropriate for volunteers to undertake. These include the use of firearms and the use of certain controlled pesticides. The wide range of volunteer partnerships we are seeking will include people who have different levels of skills and experience. It is important to note that all government agencies employ professional staff who are responsible for undertaking highly skilled tasks, such as the use of firearms and heavy machinery, but there are many other tasks that are suitable to be undertaken by volunteers. Volunteers undertake high-risk activities in emergency situations, such as firefighting, but much of that work involves organised community groups with a long history of training. The amendments that the Government will move provide the DEC director general with flexibility in determining appropriate activities when the availability of volunteers and management requirements change over time.

In summary, assuming the Government's amendments are supported, the Government will support the bill. The Government will continue to consult with key stakeholder groups, including key volunteer groups and representatives from relevant trade unions, to ensure that the legislation is implemented in a way that results in significant benefit to national parks.

Mr IAN COHEN [4.54 p.m.]: I oppose the National Parks and Wildlife Amendment (National Parks Volunteer Services) Bill. The Greens recognise that it seeks to include in the National Parks and Wildlife Act a provision for volunteer service to include tasks such as the control of pests, including feral animals, the control of weeds, bushfire hazard reduction, the maintenance of tracks and trails, the maintenance of facilities, the removal of rubbish, and the carrying out of public relations activities, including guided tours.

As I listened to other speakers during the second reading debate this afternoon, the thought occurred to me that honourable members may not be aware that comprehensive volunteer programs are already being undertaken within national parks. One could gain the impression that, with the exception of honourable

members who have expressed the desire for this legislation to be passed, people have done nothing and national parks are in a shambles. I am certain that is the impression many members of this House would like to create.

The facts are that we are dealing with a very dedicated bureaucracy, albeit underfunded, that is working towards the maintenance of wilderness areas and national parks. By and large, those government services are doing an excellent job in varied and difficult circumstances. It is very important to recognise that part of the current program, without any help from this type of bill, involves many voluntary groups and organisations. I have been involved in Coastcare and in working in national parks with community groups under the auspices of trained personnel. I have carried out weeds eradication work in national parks. Together with many other people who are involved with the green movement, which some people are very quick to label extremist, I have put many hours of voluntary work into national parks in my local area, and I will continue to do so because it is time well spent.

However, the tenor of this debate suggests that somehow nothing has been done. That is far from the truth. The Government deserves credit for the efforts it has made to organise activities in national parks. The control of pests, including feral animals, should be left to a strategic, professional feral animal control program in this State. How does the Hon. Robert Brown propose that volunteers will carry out feral animal control? Will he send them into our national parks with guns?

The Hon. Robert Brown: Yes.

Mr IAN COHEN: I acknowledge the interjection by the representative of the Shooters Party. I expect his response will be met with a great degree of enthusiasm by members of his political party, but equally I suggest that many recreational users of national parks as well as many others would be horrified to think that recreational shooters will be loose in national parks. It is bad enough that they are in State forests and other areas. In making that observation, I do not wish to denigrate people who take part in that activity responsibly, but the fact of the matter is that, as the Greens have always said, proper programs organised under the auspices of the National Parks and Wildlife Service or the Rural Lands Protection Board are a reasonable approach. To actually have volunteer hunters with guns in national parks is not acceptable. State forests have been overtaken by the Games Council under the guise of conservation hunting. I hope that activity is undertaken with a degree of responsibility. Unfortunately accidents have already occurred and I am sure there will be more of them. How does the Hon. Robert Brown propose that volunteers use poison? I foresee numerous problems with such a provision.

During this debate, some honourable members attacked the wilderness mentality. I point out that wilderness is part of the system. It is not some type of left-wing centralist or Stalinist campaign, contrary to the impression that some honourable members like to create. The issues that we are considering relate to the varying stages of national parks. Unless the Government's amendments water down the legislation, the wilderness will be under attack.

Reference was made earlier to Dr John Wamsley, who has established a number of reserves. One such reserve was set up in South Australia in an area that has a major feral animal problem. Dr Wamsley has successfully isolated many areas and has been able to breed up indigenous species. I acknowledge that activity, although I am somewhat critical of it. However, Dr Wamsley tried to move into an area in the Blue Mountains, a move that was opposed by the National Parks and Wildlife Service and the Minister for the Environment, who is also the local member. Some real issues arose with regard to cutting off national park areas and creating enclosures.

Dr Wamsley tried also to move into the Ocean Shores area between Mount Warning and Ocean Shores in the north of the State. He sought to fence off a forested wildlife corridor where species move from Mount Warning to the coast. He attempted to maintain the integrity of the ecosystem in that area and joined up a significant number of national parks—all without fences, of course. His plan allowed the free movement of animals. Dr Wamsley reacted in a manner not dissimilar to the way some members of this House react to true conservation concerns: he was up in arms.

Pursuant to sessional orders business interrupted to permit a motion to adjourn the House if desired.

The House continued to sit.

FREEDOM OF INFORMATION AMENDMENT (OPEN GOVERNMENT—DISCLOSURE OF CONTRACTS) BILL

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

Motion by the Hon. Arthur Chesterfield-Evans agreed to:

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

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

MINISTRY

The Hon. HENRY TSANG: I inform the House that on 26 October 2006 Her Excellency the Governor appointed the following persons to the offices indicated:

The Hon. John Arthur Watkins, MP, as Minister for Police
The Hon. Eric Michael Roozendaal, MLC, as Minister Assisting the Minister for Transport

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 1 to 6 postponed on motion by the Hon. Henry Tsang.

CRIMINAL PROCEDURE AMENDMENT (SEXUAL AND OTHER OFFENCES) BILL

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [5.02 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 incorporate the second reading speech in *Hansard*.

Leave granted.

The Government is pleased to introduce the *Criminal Procedure Amendment (Sexual and Other Offences) Bill 2006*.

This Bill proposes amendments to the *Criminal Procedure Act 1986* and the *Crimes Act 1900* to extend the existing protections provided to complainants in sexual assault proceedings, and to provide protection for other vulnerable persons in criminal proceedings. It is part of the Government's continuing commitment to ensure that the harm suffered by sexual assault victims is not compounded by the processes of our legal system.

The amendments ensure that complainants are afforded greater measures of privacy and respect in court proceedings, in order to minimise the trauma and potential re-victimisation these courageous people experience in their interaction with the criminal justice system.

This Bill is part of the Government's on-going legal reforms in the area of sexual assault prosecution, and arises out of the recommendations of the Criminal Justice Sexual Offences Taskforce, which I established in December 2004.

The Taskforce Report, published in April 2006, contains 70 recommendations, and represents the most comprehensive review of the law in this area in the last 20 years. The Taskforce was made up of representatives from a number of Government and non-Government agencies, and involved wide consultation with various stakeholders.

I take this opportunity to thank each one for their hard work and efforts in this very important endeavour on behalf of the Government. In particular, the Government thanks Lloyd Babb, Chair of the Taskforce, who was able to achieve consensus in a committee with very disparate views, and Sally Traynor of the DPP for her hard work in putting this report together.

The Taskforce recommendations not only highlight the need to change laws and procedures affecting the prosecution of sexual assault matters, but are aimed at bringing about a cultural shift in the way sexual offences are investigated and prosecuted, and the attitudes of key participants within the criminal justice system. It is hoped that addressing these issues will help alleviate the high rates of attrition in sexual offences.

This Bill concentrates on the legislative recommendations in the Taskforce Report and is part of the Government's commitment to improving the response of the criminal justice system to sexual assault crimes, while at the same time upholding the cornerstone legal principles that are valued by our community, such as the right of the accused to a fair trial.

This Bill represents the first stage of the Government's package to reform sexual assault laws. I expect to introduce a further Bill shortly that will focus on greater protection for children, intellectually impaired persons and other vulnerable witnesses in the criminal justice system. These amendments are currently being finalised.

In addition, I expect to be consulting very soon on a bill that will contain a definition of consent, expansion of the circumstances that vitiate consent, and the introduction of an "objective fault test". These recommendations require further consultation and advice from legal professionals and community stakeholders.

This Bill amends the *Criminal Procedure Act 1986* in respect of:

- Committal processes;
- Non publication orders;
- Jury directions;
- Communication devices for vulnerable witnesses;
- Use of a complainant's previous evidence to be used in a new trial, where the earlier proceedings were adjourned, aborted, or resulted in a hung jury; and
- Amends the unrepresented accused provisions.

I now turn to the detail of the Bill.

Committal proceedings

Items [1] to [3] of Schedule 1 relate to committal proceedings. It is a general rule that complainants are not called to give oral evidence in committal proceedings. The Courts rely mostly on their written statements in deciding whether or not there is a case to answer.

In sexual offence proceedings in particular, it can be particularly traumatic to repeat evidence already provided several times to police, at committal and at trial.

While it may be appropriate for a sexual assault complainant to be called to give evidence at committal in some cases, the Bill seeks to tighten up the procedures surrounding the process so that this is the exception rather than the rule.

The Bill amends Section 91 to provide that the written statement of a witness, who is directed to attend committal proceedings to give oral evidence, may be admissible as evidence in the proceedings in certain circumstances, namely where the parties consent, and the Magistrate is satisfied that there are substantial reasons why, in the interests of justice, the statement should be admitted.

At present, the written statement of such a witness is not admissible under the Act. The purpose of this amendment is to provide extra protections to the complainant by enabling the Magistrate to admit his or her statement as evidence-in-chief, and to codify a practice that is routinely adopted in court but at present has no legislative backing.

Section 93 of the *Criminal Procedure Act 1986* currently provides that in any committal hearing in which the accused is charged with an offence involving violence, the Magistrate may not direct an alleged victim of the offence who has made a written statement to give oral evidence at the hearing, unless the Magistrate is of the opinion that there are special reasons in the interests of justice why the alleged victim should attend the hearing.

Where the parties agree to the alleged victim being called, the Magistrate must then direct the attendance of the victim. This position has been confirmed in obiter remarks in the judgment of Justice Johnson in the recent Supreme Court decision of *Director of Public Prosecutions (NSW) v O'Conner* [2006] NSWSC 458.

This Bill amends Section 93 to provide that such a direction should not be given unless the Magistrate has satisfied him- or her-self that such special reasons in the interests of justice exist, even where there is agreement between the parties. This will place a positive duty on the court to ensure that the interests of the complainant are protected.

Section 93 is also amended to confirm the prohibition on calling child complainants in certain sexual offence proceedings to give oral evidence at committal hearings.

Vulnerable person to use communication aid

Item [4] of Schedule 1 inserts a new section 275B into the *Criminal Procedure Act 1986* to deal with vulnerable witnesses. This is only one of many recommendations made by the Taskforce in relation to vulnerable people. As I foreshadowed earlier, further amendments will be made in a forthcoming separate Bill.

The rationale behind the introduction of special arrangements for vulnerable witnesses, is that it facilitates the witness giving their best evidence. Where a person relies upon an aid to communicate in their day to day living, that aid should also be available for their use in giving evidence before a court.

This new section provides that in any criminal proceedings, a witness who has difficulty communicating is entitled to use a communication aid, or a person in the role of an intermediary, to assist the witness in giving his or her evidence, but only if the witness ordinarily uses such assistance on a daily basis.

Any intermediary acting under this section will be subject to the provisions governing interpreters in the Evidence Act 1995. This section will supplement existing provisions in the Evidence Act 1995 that enable a court to make any orders it considers just in relation to the way witnesses are questioned, and its inherent power to control proceedings.

Non publication orders

It is a fundamental principle of the common law that the administration of justice must take place in open court. The law however, also makes exceptions to the rule, particularly where children and sexual assault complainants are concerned.

Section 292 of the *Criminal Procedure Act 1986* prohibits publication of evidence in sexual assault proceedings.

Similarly, section 578A of the *Crimes Act 1900* makes it an offence to publish any matter which identifies or leads to the identification of a complainant in certain sexual offence proceedings.

The Taskforce examined whether the current provisions relating to non publication orders in s 578A and s 292 are adequate protection for victims in sexual assault trials. They made a series of recommendations in the Report (17-21) to enhance the existing provisions in recognition of the fact that publication of the identity of complainants in a sexual assault trial may cause secondary trauma to those complainants, increase the stigma attached to the offence and in some cases, jeopardise the safety of complainants.

Item [5] of Schedule 1 amends s 292 to clarify that publication of evidence, or any report or account of that evidence, includes dissemination via the internet or any other electronic means. It also provides, consistent with s 578A, that the court must consult with the complainant before determining whether to make such an order. Of course, in practice this consultation may occur either directly with the complainant or via the prosecutor.

The Taskforce also agreed that there are occasions where non publication orders should continue after the verdict has been delivered for a period of time where there is the possibility of creating adverse publicity for an accused facing a back to back trial or the trial of the co accused.

It will be remembered that the Court of Criminal Appeal overturned a conviction for gang rape on the basis of adverse publicity (see R v S (2004) 144 A Crim R 124).

Accordingly, s 292(7) provides that any non publication order can continue to have effect after the proceedings have been finally disposed of. The court may however, on application from any person, vary or revoke the order at any time.

Schedule 2 of the Bill amends s 578A of the Crimes Act in similar terms to s 292 of the *Criminal Procedure Act 1986* to clarify that publication includes dissemination via the internet and other electronic means.

Jury Directions

Perhaps the most significant amendments in this Bill are those relating to jury directions concerning warnings to the jury in sexual assault proceedings.

These directions have been roundly criticised by members of the judiciary, legal practitioners and academics as being variously, too confusing, inconsistent, having no rational basis, reinstating false stereotypes about women, and giving rise to a high number of appeals of a very technical nature.

There has also been a practice developing of judges giving a warning even where it is not necessary in order to "appeal-proof" their decisions. This apparent compulsion to give the warning has of itself given rise to mistakes occurring in the way in which the direction is given to the jury.

For example, figures supplied by the Judicial Commission of NSW to the Taskforce show that for sexual assault cases heard on appeal from 2001 to 2004, the most common basis for a successful appeal based on a misdirection was that there was a deficiency in the *Longman* direction resulting in an error of law (22 of the 37 cases). Of the 22 cases where a *Longman* misdirection gave rise to an appeal, a retrial was ordered in 14 of those cases, and in 8 cases an acquittal was entered by the court.

Section 294 of the *Criminal Procedure Act 1986* currently provides that in circumstances where there is evidence given or a question asked of a witness in certain sexual offence proceedings that tends to suggest a delay in, or absence of, complaint about the alleged offence, the Judge is to warn the jury that this absence or delay does not necessarily indicate that the allegation is false, and that there may be good reasons why such a victim may hesitate in, or refrain from, making a complaint.

The High Court in *Crofts v The Queen* (1996) 186 CLR 427 has stated that if a warning is given in accordance with section 294, then the jury should also be informed that the delay, or absence of complaint may be taken into account in evaluating the complainant's evidence, and determining whether to believe him or her.

Item [6] of the Bill therefore extends section 294 to ensure that a judge does not also warn the jury that such a delay or absence of complaint is relevant to the victim's credibility, unless there is sufficient evidence to justify such a warning.

The next amendments relate to the *Longman* warning [*Longman v The Queen* (1989) 168 CLR 79] which is given to the jury where the court considers that because of the passage of so many years between the offence and the complaint, it would be dangerous to convict on the complainant's evidence alone, unless the jury is satisfied of its truth and accuracy, having scrutinised the complainant's evidence with much care.

The rationale for the *Longman* warning is that the effect of significant delay on the accused's ability to test the complainant's allegations may not be readily apparent to a jury.

There have been a number of criticisms of aspects of the *Longman* warning from the judiciary, practitioners and academics:

- Decisions of the High Court had created an irrebuttable presumption that the accused had in fact been disadvantaged, requiring a direction to be given in every case involving delay, irrespective of whether the was any evidence that the delay had in fact denied the accused a proper opportunity to meet the charge;

- The unequivocal nature of the warning;
- The use of the words 'dangerous to convict' in the warning, risks being perceived by the jury as not too subtle encouragement by the trial judge to acquit;
- Uncertainty is created about what period of time or delay would generally not require a warning.
- The directions take an inordinate length of time and the language used by judges to explain legal concepts in this area was often repetitive, convoluted and confusing.
- It appears to re-create sexual assault complainants as an inherently unreliable class of witness

A *Longman* style warning, if given correctly, with some flexibility and in the appropriate circumstances, retains a legitimate place in the criminal law. Most commentators and judges appear to be of the view that the decision in *Longman* is correct.

Longman itself was an unusual case where the delay in complaint was 25 years. The *Longman* warning however, is being given in cases where the period of delay does not warrant it. For example in the recent case of *DRE v Regina* [2006] NSWCCA 280 where the day in complaint was 5 years the Chief Justice said at [4] "This is at best a borderline case for a *Longman* warning".

Quite apart from overuse of the *Longman* warning it was also extended by the High Court in Doggett's case to include cases even where the complainant's evidence is corroborated. It is this extension of *Longman*, that is, the unequivocal assumption in the warning, that is most problematic and criticised.

It must be acknowledged that in some cases a delay in complaint may prejudice an accused person; by denying the accused the ability to marshal witnesses who may have died or may no longer be able to be located. Prejudice may also be occasioned due to a loss of evidence, for example the destruction of school records, medical records, employment records, or photographs which may have otherwise been able to cast doubt on the evidence of the complainant. These issues may not necessarily be apparent to the jury, who are not entitled to speculate on evidence that it is not before them.

Other Australian States have also identified problems with the *Longman* direction and suggested a number of options for reform. Most importantly, the Australian Law Reform Commission (ALRC) has also examined this issue and recommends that the uniform Evidence Act be amended.

Accordingly, Item [7] of the Bill further amends s 294 to provide that where the delay is significant, and the accused can show he or she suffered a significant forensic disadvantage as a result of the delay, the Judge may warn the jury of the nature of the disadvantage and the need for caution in determining whether to accept or give any weight to the relevant evidence, but only where a party requests the warning.

The amendment is designed to ensure in the first instance that a *Longman* warning should not be given unless it is established factually that there has been a significant delay. The word "significant" has been purposely used to ensure that the warning is given in cases where the delay is warranted, and conversely not given where the delay is not significant.

The direction in *R v Murray* (1987) 11 NSWLR 543 provides that where there is only one witness asserting the commission of the offence, the evidence of the witness is to be scrutinised with great care. The typical sexual assault offence takes place in private without any other witnesses. The members of the Taskforce agreed that the direction was unnecessary, as existing directions as to reasonable doubt were sufficient to protect the accused.

Item [8] of the Bill therefore adds a new section 294AA which prohibits a judge from stating or suggesting to a jury that complainants in sexual offence proceedings are unreliable witnesses as a class, mirroring section 165A of the *Evidence Act 1995* which relates to children. The new section also prohibits the judge from warning the jury of the danger of convicting on the uncorroborated evidence of any complainant.

Unrepresented Accused

Section 294A currently prohibits an unrepresented accused person from cross-examining a complainant in certain sexual offence proceedings, and provides for a court-appointed intermediary to ask the questions.

The NSW Law Society has specifically advised its practitioners not to act in this regard because of professional liabilities that might arise from a qualified practitioner acting as a mouthpiece for the accused, but not providing legal advice.

Section 294A is therefore extended by Item [9] of the Bill to ensure that an Australian lawyer appointed by the court under this section is immune from his or her professional responsibility towards the accused.

Use of evidence in subsequent trials

In May 2005 the *Criminal Procedure Act 1986* was amended to permit previously recorded evidence given by a complainant in sexual assault trials to be admitted in any retrial after appeal, including evidence-in-chief, cross-examination and any re-examination. This was designed to alleviate the trauma of having to give such sensitive evidence again and again.

There are other circumstances in which a complainant is forced to give evidence again through no fault of their own, including where a trial is aborted or results in a hung jury or is discontinued for other reasons, such as the sudden unavailability of the trial judge, refusal of a juror to continue, or illness of one of the parties or his or her lawyers.

Item [10] of the Bill expands the existing provisions to allow for all or part of a complainant's previous evidence in criminal proceedings to be used in a subsequent trial by introducing a new Division 4: Special provisions relating to subsequent trials of sexual offence proceedings.

These new circumstances allowing the use of evidence in hung juries and aborted trials may be distinguished from a retrial. Where a retrial as been ordered following the result of a successful appeal, the complainant's evidence is complete, including

cross-examination, and the jury has convicted the accused on the basis of that evidence. Where hung juries and aborted trials have resulted in new trials the complainant may not have given all of their evidence, or the jury may have been unable to reach a verdict.

Accordingly, several allowances must be made in these new provisions to ensure that the accused is not being unfairly disadvantaged. Although there is a presumption in favour of admitting the previous evidence, the Court is given a discretion whether or not to admit the evidence, having regard to the completeness of the previous evidence including cross-examination; the effect of editing the evidence if necessary; the availability or willingness of the complainant to attend to give further evidence and to clarify any matters arising from the previous evidence; the interests of justice; and any other matter the court thinks relevant.

Additionally, the complainant must be available to give further evidence if the Court believes it is necessary to clarify matters arising from the previous evidence; or to canvass information or material that has become available since the original proceedings; or if it is in the interests of justice. However, there is a presumption against calling the complainant, and the mere fact that the previous evidence is incomplete; or that further material has come to light, will not automatically make the complainant compellable to give evidence.

The new Division 4 of Part 5 of Chapter 6 of the *Criminal Procedure Act 1986* gives effect to these provisions. New Section 306H contains relevant definitions, and Section 306I permits the prosecutor to tender the record of the evidence of the complainant given in the discontinued proceedings, as evidence in the new trial. This includes evidence-in-chief, cross-examination and any re-examination.

The record will only be admissible if the prosecutor gives the accused and the court notice of the prosecutor's intention to tender the evidence, and the hearsay provisions of the Evidence Act 1995 will not apply. The new provisions will extend to new trials listed before the commencement of the new Division.

New Section 306J provides that the complainant is not compellable to provide further evidence unless the Court is satisfied of the matters already referred to. New Section 306K enables the complainant to elect to give further evidence with the leave of the Court, if he or she so chooses.

New Section 306L applies the provisions of the current 306E to 306G to the new Division 4 which relate to the form in which the recording is to be tendered, as well as access to recordings and exhibits.

The amendments contained in this Bill will make it easier for complainants in sexual assault proceedings to give their evidence and reduce the stress that the court process entails, as well as assisting them to give the best evidence they can give, and preventing their re-victimisation in the criminal justice system.

It is hoped that such amendments will encourage increased reporting and prosecution of sexual assault matters and I am sure this will be welcomed by all members.

I commend this Bill to the House.

The Hon. CATHERINE CUSACK [5.03 p.m.]: Between 1996 and 2003 the number of reported sexual assault cases in Australia increased from 14,542 to 18,237, a jump of about 25 per cent. In his book *Girls Like You*, Paul Sheehan discusses that increase and comments on the poor reporting rate for that type of crime. He suggests that we are now confronting around 100,000 sexual assaults per year. With a low reporting rate, low prosecution rate and the difficulties associated with proving that type of crime, it is estimated that the conviction rate for sexual assault is about 1 per cent. In other words 99 per cent of rapes occur without consequence. As Mr Sheehan said, "that means rape is all but legal in New South Wales". There is no more despicable crime than sexual assault. It is, for the women's movement, the ultimate crime against the dignity, identity and value of women. It is an assertion of the worst characteristics ascribed to males who seek to dominate women—aggressiveness, a cowardly use of physical strength to overpower, degrade and humiliate a woman, all for the purposes of sexual self-gratification. The use of force on an unwilling victim appears to heighten the experience of the rapist.

I add two additional comments. First, I recall a conversation I had some 20 years ago with a former Speaker in the other place, Kevin Rozzoli, who remarked that likening rapists to animals was grossly unfair to animals, because he was not aware of any creatures, other than human beings, who were capable and guilty of that type of conduct. I make the point that most men and women regard the crime of rape as horrifying and unacceptable. The second comment I make is that although women are overwhelmingly the victims of sexual assault, many males, particularly young boys, are also victims. As a Liberal I regard the offence as a crime against individuals. Victims of sexual assault suffer a complete change in their lives. They are less likely to form successful relationships and more likely to develop mental illnesses and commit suicide. Recovery from the experience of sexual assault is possibly the loneliest and most courageous journey any individual can undertake. That is why organisations such as Bravehearts refer to their clients as survivors of sexual assault. It is a deliberate choice of term, meaning they chose not to be victims. But neither are they unaffected by the experience. They are survivors rebuilding and reclaiming their lives.

I pay tribute to a number of my Liberal Party colleagues who have taken a longstanding and very detailed interest in the difficult area of sexual assault. Jillian Skinner, the honourable member for North Shore,

is a tireless advocate for her health-funded sexual assault local services and has attended and assisted with many policy discussions that the Liberal and Nationals women have held on numerous occasions. My colleague the Hon. Robyn Parker has taken a courageous personal stand on the issue, showing leadership by sharing her personal experiences and ensuring greater understanding of the problem and the importance of reform. Judy Hopwood, the honourable member for Hornsby, has also used the opportunity she has as a member of Parliament to show leadership on the issue, and I commend her for her remarks on this legislation in another place.

My colleague the shadow Attorney General, the honourable member for Gosford, Chris Hartcher, made a truly outstanding contribution on this bill when it was debated in the other place earlier this week. He demonstrates a grasp of the issues, and from a legal perspective he has assisted our efforts to navigate a course for reform. I particularly thank Mr Hartcher for raising the issue of consent and for drawing the attention of Parliament to the fact that proposals in the bill do not include a plan to formalise and legislate a definition of consent, which was recommended by the working party's report. This issue has been much discussed by women on this side of politics. It is a disappointment, given the length of time that has passed since the report was handed to the Government—at the end of last year—that the issue of consent has not been addressed.

A great deal of hard work on this complex matter was completed by the working party last year. That working party represented all interests, including defendants, victims and the legal system. Consent was potentially the most significant of the 70 recommendations. After all that hard work, it is a great disappointment that it has not been included in the bill. It would have been a fitting tribute to the efforts of the working party to include it in the bill.

Notwithstanding that, when the matter was raised by Mr Hartcher during debate, an assurance was given by the Attorney General that the issue of consent had not dropped off the radar, and work continues to ensure that such a recommendation is implemented. The only thing worse than delay is for something not to happen at all. The Opposition will work to ensure that the issue of consent is kept alive and in the public eye so that it can be legislated, hopefully by a Debnam government next year.

I draw heavily on the remarks made by Mr Hartcher in another place because he encapsulated from both a legal and moral perspective the policies and concerns of the Opposition. In December 2004 the Attorney General, the Hon. Bob Debus, assembled a special task force to consider the major reforms that would revolutionise the way sexual assaults were dealt with by the legal system. That move followed 63 fresh reports of gang rape in the previous financial year and the additional revelation that of the 9,532 reports of sexual and indecent assault that occurred in New South Wales only 216 convictions were recorded.

The purpose of that task force was to draw together all the interest groups—lawyers representing offenders, the Rape Crisis Centre representing victims, and solicitors seconded from the Attorney General's Department, with additional people with special skills representing the judiciary. All those people had a particular expertise in law reform policy work. That exceptional group of people undertook one of the most difficult challenges of all—developing a consensus approach to law reform with regard to sexual assault. On behalf of the Opposition I thank the members of that group and salute their efforts.

In December 2005 more than 300 victims responded to a landmark survey that found the legal system was failing complainants in just about every area. The task force used this study to help to complete its submission to the Government. In January 2006 the task force, comprising judges, barristers, police, counsellors and academics, and the Director of Public Prosecutions, delivered its final recommendations to the Government. In April 2006 some extraordinary cases involving gang rapes in Sydney were heavily reported in the media. Tegan Wagner walked from the court and proudly spelled her name out loud to reporters after hearing the conviction of the brothers who had so disgracefully raped her.

On behalf of all women, as well as all members of Parliament, I pay a special tribute to Tegan Wagner. Her name was suppressed during the court process to protect her privacy. It is an amazing thing for any rape victim even to appear to endure the processes of the judicial system and to see it through. Tegan Wagner took the additional step of identifying herself to put a human face to the story of rape and what it means to victims. In doing that she raised the profile of the issue tremendously. Ms Wagner did that in an attempt to give some meaning to the crimes committed against her and to try to make sense of what had occurred.

With her courage and her example she has done a tremendous service to us all. I believe that her actions have contributed substantially to putting steel in the spine of those who are in a position to undertake

these law reforms. Tegan should take personal pride in the fact that we are debating this legislation in the Parliament today. I thank her. Sexual assault counsellors hailed her courage and the resulting publicity as a major turning point. I have already referred *Girls Like You*, an excellent book written by Paul Sheehan that dealt with this case.

I join Chris Hartcher in congratulating Mr Sheehan. His book is a factual eyewitness account of the deficiencies and tribulations of our legal system. I take this opportunity to refer to the comments made by Ken Marslew from Enough is Enough. Ken Marslew frequently makes the comment that we do not have a justice system in New South Wales; we have a legal process, but we do not have a justice system. Paul Sheehan's book serves only to reinforce the Opposition's observation. Mr Sheehan's book draws attention to the good people working within the legal system.

Time does not permit a detailed recount of the victims that Tegan Wagner praised for their commitment to justice, but I take this opportunity to mention Margaret Cunneen. In his book *Girls Like You*, Paul Sheehan deals in considerable detail in chapter 24, entitled "The Footsoldier", with Margaret Cunneen's approach to and her views on the judicial system. He recounts an address that Margaret Cunneen gave to the University of Newcastle law school when she delivered the 2005 Sir Ninian Stephen lecture. In that lecture—which has become either famous or notorious, depending on one's position in the legal system—Margaret Cunneen made some pertinent points on behalf of victims and their perspective.

The Hon. Peter Breen: Is she a QC?

The Hon. CATHERINE CUSACK: I acknowledge the honourable member's interjection. He asked whether Margaret Cunneen was a QC. Unfortunately, she has been rejected for the fifth time. Clearly she has offended the powers that be in the system.

The Hon. Peter Breen: She is clearly not a bloke.

The Hon. CATHERINE CUSACK: She is not a bloke and she is not toeing the line in the club. From the perspective of our justice system it appears as though she is becoming a celebrity for all the wrong reasons. The situation she now faces is beyond a joke. I quote from the speech that she made. I believe that this law reform process is an attempt to address some of the concerns raised by Margaret Cunneen. We recognise that the legislation before the House today, which the Opposition does not oppose, is only the first step along the way. A great deal more must be done to redress deficiencies in the legal system from the victim's point of view.

In her speech Margaret Cunneen highlighted the fact that all the rights and considerations in our system go to the alleged offender. It is as though every victim is guilty trying to prove her innocence in a bizarre reversal of the principle that every offender is innocent until proven guilty. A reading of Mr Sheehan's book is a convincing demonstration of that. Anybody who wonders why 99 per cent of rapists go free need only read his book to understand how seriously prejudiced the system appears to be against victims. Margaret Cunneen states:

> What must not be lost in the rhetoric of the criminal law and our zeal to afford every possible protection to accused persons is the fact that every time a guilty person is acquitted the law, in a sense, has failed the community it exists to serve.

When referring to the 99 per cent of victims who are not accommodated by the law she states:

> Just to utter this unassailable proposition is almost a heresy because it involves looking behind that stalwart of the criminal law that one is innocent until proven guilty. This legal act of faith is in danger of becoming a legal fiction.
>
> There seems to be a fashion, among some in the criminal justice system, for a kind of misplaced altruism that it is somehow a noble thing to assist a criminal to evade conviction.
>
> But what good does it do a person, in 2005, to avoid the consequences of serious crime? There is no remorse, no introspection, no rehabilitation. For some, there may be a feeling of relief and a determination never to find oneself in the same predicament again. What, though, of the rest, whose respect for the criminal law is now even lower, having seen it fail, and who are emboldened by having defeated it? Obviously the community is in danger from these people. If they offend again, isn't someone accountable, apart from themselves?
>
> Justice isn't achieved by ambush, trickery, dragging proceedings out in a war of attrition with witnesses. It's achieved by honesty, balance and proportion. As lawyers, you have power. Be good with it.

That is a very powerful speech. All honourable members with an interest in this area should seek to obtain a copy of that speech and read it all. The original task force report that was produced in April contains

70 recommendations to the Government. They were designed to ensure that victims were better treated by the system, that conviction rates were increased, and that victim trauma was reduced. In welcoming the report, the Attorney General, the Hon. Bob Debus, announced that he would implement many of the major legislative reforms it recommended. On behalf of the women in the Opposition I convened a forum and invited the Law Society, Karen Willis from the Women's Rape Centre and representatives from the Attorney General's Department who had worked on this report to brief us on the recommendations.

I thank the people who gave the briefing. It was an incredibly valuable exercise from our perspective. We circulated the report and our understanding of it to all members and, through a fairly exhaustive process, determined that we would support all 70 recommendations. I thank my colleagues for the seriousness and diligence with which they examined the report. We regard it as a landmark document, and the sooner it is implemented fully, the better.

The report recommended a number of things that are not capable of legislative action, such as education programs for judges and court staff. The report's principal recommendation was the establishment of a one-stop sexual assault centre for victims. At present victims must attend up to six different locations when seeking help. This is arguably the most important reform to be recommended. Of course, it is an administrative, not a legislative, matter and requires funding from the Government. It is regrettable that until now the Government has not made an announcement about when that one-stop sexual assault centre will be established, how it will be funded and who will staff it. We call on the Government to make an announcement about that at the earliest opportunity. The report was delivered to the Government 10 months ago, so more than enough time has elapsed. I think it is reasonable to expect an announcement from the Government on that issue shortly.

The report also recommended that consideration be given to establishing a special sexual assault court, similar to that set up to deal with gun crimes. According to media reports, the Government stated that it was considering this proposal. However, it has not released a statement about it. The task force was established in November 2004 and the report was released some 14 months later. Yet the Attorney General and the Government have not confirmed that the court will be established. In 2004, before the release of the report, New South Wales sexual assault and court conviction statistics—which were released in November—revealed that 11,000 people contacted New South Wales police in the previous financial year to report a sexual assault. The figure included 63 gang rape offences and 320 child sexual assault offences. A further 3,352 cries for help were received by the New South Wales Rape Crisis Centre, the State's only 24-hour rape counselling service.

Together with all honourable members, I commend the wonderful work that the New South Wales Rape Crisis Centre does in assisting so many women who are tragically victims of sexual assault. Those at the centre display enormous patience and compassion. I have met and had discussions with many rape victims over the years and I know that counselling them is a big commitment. This assistance is vital for victims but it involves a major commitment on the part of those who undertake to support them. Media reports stated at the time that the establishment of a sex crimes court was an historic reform that would be a first for Australia and was the result of intensive lobbying by the New South Wales Rape Crisis Centre. The centre's manager, Karen Willis, who attended a meeting with the Attorney General, his senior policy advisers and the State Government's law reform section, said:

> We spoke at length about a place where everybody from the judge to the cleaner would be trained to deal specifically within this area; the idea being that victims get treated with greater dignity, respect and, of course, that justice is served.

Ms Willis said that the gathering was sparked by statistics that she argued proved that rape victims were being let down now more than ever. New South Wales Bureau of Crime Statistics and Research figures reveal that there has been a dramatic increase in the number of sexual assaults reported to police. In 2002-03 there were 9,151 reports and to the end of June 2004 there were 11,000.

As well as the staggering number of reported gang rapes and child sexual assaults, the New South Wales Rape Crisis Centre reported that 196 adults stepped forward for the first time to admit that they were sexually assaulted as children. Some 77 people aged 55 and older reported being raped. In addition, the bureau report reveals that 63 people contacted the service believing they had fallen prey to sexual assault as a result of drink spiking. Ms Willis said:

> Sexual assault figures are increasing across the board, but it's impossible to know whether it's the number of incidents that are rising or the number of women deciding to come forward.

The Australian Bureau of Statistics estimates that only 20 per cent of rapes are reported, which means that we are looking at a potential figure of approximately 60,000 sexual assaults in New South Wales in the past year.

As I said, during the same period there were just 247 convictions. The gap between reported sexual assaults and convictions is enormous. It is a serious challenge to our society that must be accepted and met if we are to afford women the protection and dignity to which they are entitled and the respect and protection that the law must give all its citizens. A further report in January this year in respect of the 300 people who responded to the landmark survey of 2005 stated that the latest figures showed that 98 per cent of accused sex attackers walked free in 2004. That means that only 1 per cent or 2 per cent of sexual assault complaints resulted in a prison sentence.

The evidence shows that there has been a 25 per cent increase in the number of sexual assaults reported in Australia. Let us compare our figure with that of the United States of America. I refer honourable members to a Juvenile Justice Bulletin from January 2004 produced by the Office of Justice Programs in the United States Department of Justice. It reveals that there has been a proven massive reduction in the rate of sexual offending in the United States in the past decade. The figures cited relate to child sexual assaults but I have been informed that they are completely consistent with the total number of sexual assaults. The article states:

> The number of sexual abuse cases substantiated by child protective service (CPS) agencies dropped a remarkable 40 percent between 1992 and 2000, from an estimated 150,000 cases to 89,500 cases, but professional opinion is divided about why … It is possible that the incidence of sexual abuse has declined as a result of two decades of prevention, treatment, and aggressive criminal justice activity. It is also possible that there has been no real decline, and that the apparent decline is explained by a drop in the number of cases being identified and reported or by changes in practices of child protection agencies. Identifying the source or sources of the decline in the number of substantiated sexual abuse cases is important.

The article goes on to consider the possibility that the decline is not real and then verifies the 40 per cent reduction. There has been a massive reduction in sexual assault cases across the board in the United States. The article attempts to explain why behaviour has changed; it is not simply a matter of a reduction in the number of cases reported.

We often picture the United States as a nation with exploding, unending crime rates so I think it is most significant that such a substantial and proven decline in sexual assaults has occurred in that country. We should all be interested in exploring why that has happened. The United States is still trying to work it out. It is a great result and it should give us hope that all the legislation we pass and the research we do may have some purpose and that increasing crime rates are not inevitable. I draw those statistics to the attention of honourable members because, while the United States has experienced a 40 per cent drop in the number of sexual assaults, Australia has experienced a 25 per cent increase. We should try to understand the differences between the two countries and determine whether they involve dynamics that we cannot control or whether we can do things to reduce the rate of offending in this country.

Mr Hartcher, on behalf of the Opposition, expressed disappointment in the legislation before the House because it is not a comprehensive response to the task force's report. The legislation makes limited changes to the system of dealing with sexual assaults. I acknowledge, as I did earlier, that a number of recommendations deal with matters that are outside the legislative framework. In other words, we are not claiming that all 70 recommendations relate to the law. For example, the task force recommended the establishment of a single centre to look after victims, the introduction of education programs for judges and court staff, the need for special training for police and medical staff in handling these offences, and the need to assist and resource further organisations such as the New South Wales Rape Crisis Centre. But many of the legislative recommendations have unfortunately not been addressed.

The task force comprised people with completely opposite views—judges, academics and the Director of Public Prosecutions. Given that it reached a consensus, I believe that the Attorney should have more readily accepted some of its recommendations, particularly the recommendation for a statutory definition of "consent", which unfortunately is missing from this bill. The majority of the task force members, including the Director of Public Prosecutions, said a definition of "consent" would educate the public, provide consistency, and make it clearer for the community to understand what does and does not amount to consent. The task force noted the problems in the criminal justice system, including court delays and low rates of conviction. It recommended that sexual assault cases receive separate treatment in the system and that lawyers, judges and police be trained in dealing with vulnerable witnesses. I would have thought that almost all witnesses in sexual assault cases are vulnerable.

About one-third of sexual assault matters take more than two years to complete. That is an extremely disturbing statistic because it means that the victims are in agony for such a long time. Many feel they cannot receive closure until the conviction and sentence of the offender. It is only when it reaches that stage that they feel they can begin to get on with their lives.

Indeed, in relation to the notorious MAK brothers I have met some victims whose lives have been on hold for three or four years. They have still not been given a court date. When a date is allocated the judge might decide, because of Ramadan, for example, that the matter is to be deferred yet again. Because those things are not set in law but are the dynamics of the trial process they are not anticipated by victims. Disappointingly, some of these cases never came on at all, I assume because of the difficulty in proving the crime. That meant that the Director of Public Prosecutions ultimately had to resolve that the likelihood of success was so small that it would not be worth proceeding with. Of course, that is a very devastating decision for victims.

Honourable members might recall a case where a couple of jurors examined a crime scene—a fact that was discovered during some talk between solicitors at a party—and ultimately the judge discontinued the trial. Paul Sheehan notes that one of the victims in that case felt unable to go on and repeat her evidence. She hid in her bedroom and despite the efforts of her solicitor and her mother she still felt she could not face going to court again, so the matter had to be abandoned. This is not justice. These are not good reasons for overturning convictions and allowing people to be free of the consequences of their actions. I appreciate as a non-lawyer that we need rules and consistency in our system, but, to again paraphrase Mr Marslew, this is a legal process; it is not about justice. Justice appears to be a happy coincidence if it is ever achieved.

The task force noted problems in the criminal justice system, including court delays and low rates of conviction. It recommended that sexual assault cases receive separate treatment in the system and that lawyers, judges and police be trained. More than 90 per cent of reported rapes do not result in convictions, and only 17 per cent end up in court. These figures are appallingly low. This legislation is designed to help overcome the low reporting of rapes. We want to give hope to the victims that there is value in coming forward. I do not wish to go through all of the details of the bill, because my colleague Chris Hartcher has done so. I certainly support Chris Hartcher, who said that the Opposition does not oppose this bill, and we will not move amendments to it.

I am appreciative of the assurance of the Attorney General that the issue of consent will be pursued. I understand that it is a difficult matter on which to set good judicial grounding. It would certainly be inappropriate for the Opposition to try to move amendments to the bill. Such definitions can be argued in court and sometimes become counterproductive, especially as the common law definition of "consent" is so well established.

The sections dealing with the judge's power to make certain directions to the jury is illuminating. The Opposition was not aware that this was a matter of concern. The Act specifically states that a judge must not warn a jury, or make any suggestion to a jury, that complainants as a class are unreliable witnesses. The Opposition would have hoped that that was not a problem, but clearly it has been a problem; otherwise the task force would not have felt it necessary to make such a recommendation.

The proposed section specifically prohibits a judge from giving a warning to a jury about the danger of convicting on the uncorroborated evidence of a complainant. Certain matters need to be considered when evidence is uncorroborated but the task force has clearly considered whether it needs to be expressed and has found that that is not appropriate. I do not believe for a moment that such a provision prevents the issue being raised because, after all, uncorroborated evidence should be considered carefully and deliberately.

The Coalition very much welcomes a number of the proposed sections, particularly the section that provides for the admission of a record of evidence given by a complainant in sexual offence proceedings in a new trial, following the discontinuation of a trial. When a jury is discharged for whatever reason, or fails to reach a verdict and a trial is discontinued, it is in the interests of the public and complainants that sexual assault victims are not required to give their evidence again.

I commend the excellent book by Paul Sheehan, which in a very readable fashion draws the public's attention to the many problems associated with such trials. This important legislation continues the shining of light into the dark world of sexual assault. Significantly, the Parliament is dealing with these issues. I hope that the Government, through its Executive, deals with other issues in the report, including the establishment of a one-stop centre and education programs. The Coalition welcomes the announcement by the Attorney General about education programs. I assume those matters will be dealt with through the Judicial Commission. This legislation is important and significant and deserves to be acknowledged as such.

The Hon. GREG DONNELLY [5.36 p.m.]: I am pleased to support the Criminal Procedure Amendment (Sexual and Other Offences) Bill. This important legislation implements many of the legislative recommendations made by the Criminal Justice Sexual Assault Offences Taskforce in its report "Responding to

sexual assault: the way forward". As honourable members would be aware, the task force comprised a range of government and non-government agencies. Evidence from surveys conducted in the past shows that only a small proportion of sexual assault cases enter the criminal justice system, and many of these are filtered out or do not proceed to a conviction.

According to the Australian Bureau of Statistics "Crime and safety" report of 2004, each year between 10 per cent and 30 per cent of adult female sexual assault victims report their experience to police. Community perceptions of the potential re-victimisation of sexual assault complainants when participating in the criminal justice process may be reflected in the low reporting of these matters. In relation to the ultimate prosecution of these matters, attrition occurs at three main stages: the point of investigation, the decision of the prosecutors not to proceed to trial; and the acquittal of the accused after a trial or defended summary hearing. A complex range of procedural, evidential, and non-legal factors influence the attrition process. The Bureau of Crime Statistics and Research estimates that more than 80 per cent of sexual offences reported to police do not proceed to prosecution.

I turn now to the consultation process and specifically the work of the task force. The Hon. Catherine Cusack said, quite correctly, that in December 2004 the Attorney General established the Criminal Justice Sexual Offences Taskforce to examine issues surrounding sexual assaults and the prosecution of such matters within the criminal justice system. The task force was to advise on ways to improve the responsiveness of the criminal justice system to victims of sexual assault, whilst ensuring that an accused person receives a fair trial.

A number of government and non-government agencies were represented on the task force, including the Attorney General's Department, the Director of Public Prosecutions, the Office for Women, judicial officers from the Supreme Court, District Court and Local Court, the Judicial Commission, the New South Wales Women's Legal Services, the Crown Advocate, senior academics, the Law Society, the Department of Community Services, victims services, Violence Against Women Specialist Unit, NSW Police, the Legal Aid Commission, the Public Defender's Office, the New South Wales Bar Association, NSW Health, and the New South Wales Rape Crisis Centre.

The task force made 70 recommendations for change, including a number of legislative amendments. Those recommendations followed one of the most comprehensive reviews of the law in this area in the past 20 years. The bill implements the majority of the recommendations made by the task force. It does not include changes to the law on consent; those changes are currently being developed and will require further consultation before being settled. Neither does it include the provision of one-stop shops designed to provide co-ordinated service delivery to victims. This recommendation, along with several other operational recommendations, is currently being considered by the Department of Health and NSW Police.

I turn now to the content of the bill. The bill specifically amends section 292 of the Criminal Procedure Act 1986 concerning non-publication orders to enable non-publication orders to be maintained after a verdict in order to reduce problems arising from adverse publicity, and to clarify that publishing includes dissemination over the Internet. A similar amendment concerning the Internet is also made to section 578A of the Crimes Act 1900 prohibiting a publication from identifying victims of sexual assault offences.

Also, the bill creates additional safeguards in the committal process to ensure that witnesses are not called unnecessarily. In particular, it amends the Criminal Procedure Act 1986 to clarify that, even where there is consent between the parties, an alleged victim will not be directed to attend unless the magistrate is also satisfied that there are special reasons in the interests of justice. The bill also amends the Criminal Procedure Act 1986 to clarify that the statements of witnesses directed to attend to give evidence at committal may be admissible as their evidence in chief where the parties consent, or where the magistrate is satisfied that that is in the interests of justice.

The bill simplifies a number of jury directions that have, over time, become ponderous, inconsistent and confusing. In particular, it amends the Criminal Procedure Act 1986 to prove that the Longman warning—which is given in cases where there has been a delay in making a complaint about a sexual assault—should only be given in cases where a party requests it, and the court is satisfied that the party has suffered a significant forensic disadvantage due to the delay. It amends the Act also to provide that a judge must not add to the current warning in section 294—the warning given in relation to a lack of complaint—by stating or suggesting that the credibility of the complainant is affected by a delay in reporting, unless there is evidence to justify such a warning.

The bill also amends the Act to provide that a judge is prohibited from giving a Murray warning, that is, suggesting a complainant is an unreliable class of witness. The bill provides for the giving of greater support to other vulnerable witnesses in the courtroom. In particular, it amends the Criminal Procedure Act 1986 to provide that any witness who has difficulty in communicating unaided may use an intermediary or device when giving evidence if that witness normally employs such a device to assist in communication.

The bill makes two further amendments that were not specifically considered by the task force but have been raised by practitioners. The Government's previous amendments to allow transcript and other evidence from an original trial to be admitted in retrials will be extended to allow all or part of a complainant's previous evidence in criminal proceedings to be used in subsequent trials where the earlier proceedings were discontinued because the trial was aborted or the jury was hung. There will be some flexibility, however, to recall the complainant where their evidence has not been fully completed; to clarify any matters arising from the original evidence; to canvass fresh material that has become available since the original proceedings were adjourned; or it is otherwise in the interests of justice to do so.

Further, the Government's previous amendments relating to prohibiting the cross-examination of complainants by unrepresented accused, pursuant to section 294A of the Criminal Procedure Act 1986, is clarified so that lawyers undertaking that role in good faith are immune from any liability that might arise from their professional responsibilities in acting as a mouthpiece. Those are the specific comments I wish to make about the bill.

Before concluding I want to make some general comments about sexual assault. The Hon. Catherine Cusack encapsulated the views of honourable members when she said that sexual assault, the rape of women, is a fundamental attack on the dignity of the human person of the woman. Obviously, sexual assaults, like rape, are appalling, and legislation like this provides assistance for women who need all the assistance the criminal justice system can provide them in their hour of need, if I might put it that way, to deal with these types of pernicious crimes, which demonstrate complete disregard and disrespect of the woman victim.

I would like to comment on the general culture and feelings on this issue by informing the House about a matter that came to my attention a couple of weeks ago. I think it is relevant to this debate. Some might thing, "What is the relevance?" I ask their indulgence so that I might take honourable members through my thoughts on the issue, in the hope that it will bring home the reality that society has to have a good look at itself and consider what types of messages we want to send, and what ideals and values we uphold when it comes to respecting women.

I am sure many honourable members of this House are regular readers of that journal of note the *Sydney Morning Herald*. On 6 October on the back page—a page that many of us would read—there was a short article entitled "Empowering women". I invite honourable members to read it. Reading it led me to do follow-up work, on which I will report to the House. The article was under a picture of a Lee Jeans billboard that was the subject of Advertising Standards Bureau complaints. The *Herald* article reflected on the adjudication of the bureau, and I quote from it:

> On Wednesday, the Advertising Standards Board dismissed complaints against the Lee billboard advertisement (above) finding it was "neither inappropriately sexual nor demeaning to women". While the board admitted the picture did have Lolita-like overtones, it described the pose [of the woman on the billboard] as "confident and sexy" and said that, as it did not include nudity and the model was older than 18, it was not inappropriate. The board also pointed out that it's not only children who suck lollipops—sometimes adults do, too.

That aroused my curiosity, because the photograph of the billboard, reproduced in the *Sydney Morning Herald*, depicts the woman lying on her back, her shirt pretty well undone right down the front, with her legs spread apart, and basically sucking a lollipop. I found it hard to believe the words the article attributed to the Advertising Standards Bureau, so I got on the Internet and went to the Advertising Standards Bureau web site, where I worked my way through the prompts to the bureau's adjudication on the complaints. It is really the deliberation of the bureau with regard to the complaint. I turn to the issue of the complaint. I will not read the complaint in its entirety, or the advertiser's response or the determination—honourable members can do that for themselves. But I would like to touch on some of the points made. With respect to the complaint, the complainant said:

> No advertiser has the right to place such sexually explicit pictures in public. The ad is semi pornographic. The shorts supposedly being advertised can hardly be seen. The lollipop being sucked is obviously analogous to oral sex. The T-shirt is open and the breast half exposed. The legs are spread and the immediate focus of the eyes are on the thigh and thus the woman's crotch (read vagina).

The complainant said the advertisement teaches young girls that women are simply there for their bodies and teaches young boys that women are obviously ready and available for their satisfaction. The complaint continued:

> The clothes can hardly be seen. We all must play a role in reducing violence including sexual violence in our society.

The complainant said that this type of advertisement portrays women in a demeaning way. One can then go on to see what Lee Jeans said in response to the complaint. It is worth quoting that Lee Jeans said it commissioned Terry Richardson, one of the world's foremost fashion and art photographers, to develop this billboard advertising and branding campaign for the Lee Jeans spring campaign. They said:

> The concept was developed along the theme of people's fascination with their own self-image and what they do behind closed doors

Terry Richardson, the guru engaged by Lee Jeans, was involved in the development of the billboard poster. He stated in part:

> … it's tongue in cheek, kitschy, and an over exaggerated portrayal of classic denim poses—

Whatever that means—

> The International, professional models photographed in the campaign are adults over the age of 18.

That was the response from Lee Jeans and the consultant the company engaged to develop its advertising campaign. I will turn now to the determination, because I consider this to be the nub of the point I want to make. The Advertising Standards Bureau responded to the complaint and stated:

> The Board first considered whether the advertisement breached section 2.3 of the Code by treating sex, sexuality or nudity without sensitivity to the relevant audience. The Board noted that the model used in the campaign is over 18.
>
> The Board considered that the advertiser had clearly intended that the advertisement be provocative.

There is the acknowledgment that that is what the advertisement was designed to do, to be clearly provocative. It continued:

> The woman's pose in the advertisement was a reference to a 'Lolita' style image of a young girl and the advertisement did have sexual overtones.

So there is no debate about that. But here is the big "out" by the bureau:

> However, the Board considered that the woman in the advertisement was clearly not an underage or young girl—but was a mature young woman. While there were sexual overtones in the pose struck by the model and her consumption of the lollipop, the Board considered that the representation was not inappropriate for a billboard. Specifically the board noted that the woman is over 18, is fully clothed in attire that is fashionable amongst young women for summer, and that there is no nudity. The Board considered that a degree of sexuality in advertising is not unacceptable and that the woman's pose was not inappropriately sexual. The Board also noted that consumption of this style of lollipop is now common amongst people over 18.
>
> The Board also considered whether the image was likely to promote violence against women.

And this is relevant to the debate in this House. In my view, the portrayal of women like this in advertising clearly sexualises women overtly and treats them in a most undignified way. We in society need to have a good look at ourselves and ask: Is this the way that we, as a society, wish to portray women?

The Hon. Robyn Parker: Some of us need to have a good look at ourselves, that's for sure.

The Hon. GREG DONNELLY: Might I say that if it were a male in the advertisement, I would be saying the same thing?

The Hon. Dr Arthur Chesterfield-Evans: Oh no you wouldn't!

The Hon. GREG DONNELLY: I certainly would.

The Hon. Dr Arthur Chesterfield-Evans: Oh no you would not!

The Hon. GREG DONNELLY: The issue is the sexualisation of a person. My view is that we are not talking about male versus female here—

The Hon. Dr Arthur Chesterfield-Evans: Oh yes you are!

The Hon. GREG DONNELLY: I acknowledge the interjections from the Hon. Dr Arthur Chesterfield-Evans. He certainly has not been following my argument closely, and he certainly does not know me very well at all if he believes what he has said. I will continue. The bureau also considered whether the advertisement was likely to promote violence against women, and stated:

> Having already determined that the sexual allusions in the advertisement were not inappropriate—

So it has been dismissed out of hand by the bureau:

> —the Board considered that it was unlikely that the advertisement would be seen as encouragement or in any way as endorsement of violence against women, specifically assault of young girls and young women.
>
> The Board also considered whether the advertisement was demeaning to women. The Board considered that the image of an attractive young woman, in a confident but sexy pose, was not demeaning to women.
>
> Further finding that the advertisement did not breach the Code on any other grounds, the Board dismissed the complaint.

Just out of interest I made contact with the Advertising Standards Bureau. I rang and said, "I have just had a look at the judgment in regard to a particular complaint. Am I able to find out who deliberated on this complaint and perhaps talk to those people and ask them a couple of questions?" Of course, I was not allowed to do that. I was allowed to speak to the Chief Executive Officer of the Advertising Standards Bureau, and she was happy to have a discussion with me.

The Hon. Greg Pearce: Point of order: I hesitate to take a point of order, but it is now 13 minutes since the honourable member indicated he was going to take a diversion that was not relevant to the bill. He now seems to be making some sort of complaint about the Advertising Standards Bureau, which I am sure he is perfectly entitled to do, but I suggest that he conclude his comments and return to the leave of the bill. If he has a complaint he should refer to it in an adjournment speech or at some other time.

The DEPUTY-PRESIDENT (The Hon. Christine Robertson): Order! I ask the member to speak to the bill.

The Hon. GREG DONNELLY: I was bringing my comments to a conclusion before I was interrupted by the Hon. Greg Pearce. With regard to it being a diversion, it was relevant to the bill. I was merely trying to raise this issue as something that I think we, as a society and as elected representatives, are duty bound to give some due reflection to. I am not attempting to lecture honourable members or to shove a particular position down their throats, but I am inviting honourable members to think about the issue. Here we are, as members of Parliament, passing legislation to enact laws that are critically important to protect women who have been sexually assaulted in the most terrible way, and I refer particularly to rape.

Obviously there is more that legislators can do and the Government is committed to doing more in ways that I have already described, but that has to be considered against the background of an environment in which women are demeaned. It is untenable to simply accept that legislators operate in a parallel universe and pass laws to give women what they rightly need—enhanced rights to prosecute offenders who commit terrible crimes such as sexual assault—while being blind to the reality that, culturally and socially, marketing and advertising demean women and present women as sexually available for the satisfaction of males. We must come to terms with the fact that the two issues are related. As a society, we need to take a good hard look at ourselves. People should speak up quite strongly and forcefully to tackle issues such as the way women are portrayed in advertising.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [6.00 p.m.]: I support the bill. It is established fact that it is very harrowing for victims of rape to go through a number of trials. That possibility should be minimised. Victims should tell their story and be accountable once, but not many times. The interest of the victim has to be taken into account as well as the interests of the accused. It is a question of implementing a system that administers procedures with a minimum of trauma. Our legal system should administer justice for both the victims of crime and the perpetrators of crime, and should restore justice to the procedures, attitudes and psyches of everyone involved. If it is too traumatic for victims to say anything about an offence and the perpetrators get off scot-free, the justice system becomes a lottery and akin to a farce. In discussions about rape victims, it is assumed that the victim is female, but I point out that 20 per cent of rape victims are men. Male rape is extremely traumatic because in our society a man has to be perceived as strong. If a man is not strong

enough even to defend his own body from invasiveness, it becomes difficult for males to say anything about the offence. I am not suggesting it is easy for women to talk about rape, but for men the invasiveness element of rape is very great, and male victims of rape also suffer severely.

The Billboard Utilising Graffitists Against Unhealthy Promotions group believes that advertisers must be held responsible for what they do and that the advertising regulatory system is a farce because it is totally in the hands of one-way communicators, the advertisers. In society, any powerful group needs to exercise a great deal of responsibility. In practice, that may be provided by a countervailing force. I am not sure of the name of the self-regulatory group for advertisers—I think it was known as the Advertising Council and changed its name to the Advertising Standards Board—but whatever its name is, it had a farcical system before, and I am sure that its system is just as farcical now.

Leaving aside diatribes that are critical of advertising, I believe that society needs a more natural and less prohibitive approach to sex, which would make talking about sex, educating about sex and discussing acceptable and unacceptable behaviour easier: the discussion would not be mysterious and inhibited. I think that is really the key to setting a societal norm to reduce the occurrence of rape. When considering crimes, as with considering disease, prevention is as important as cure. While we talk endlessly about punishment after crime has occurred, we spend much less time thinking about the prevention of crime. The more natural and less prohibitive is our attitude to sex, the easier it will be to talk about sex, and about acceptable and unacceptable behaviours. Hopefully that will reduce the incidence of rape and have beneficial effects. I support the bill.

Reverend the Hon. Dr GORDON MOYES [6.04 p.m.]: I speak to the Criminal Procedure Amendment (Sexual and Other Offences) Bill on behalf of the Christian Democratic Party. This bill amends the Criminal Procedure Act 1986 and the Crimes Act 1900 to implement some of the 70 legislative recommendations of the Criminal Justice Sexual Offences Taskforce. As the Hon. Catherine Cusack said, Sydney journalist Paul Sheehan gives a telling portrayal in his book, *Girls Like You*, of the deficiencies in the legal system when dealing with sexual assault cases. Mr Sheehan had followed the progression of a case through the judicial system in which six Pakistani-born brothers and their acquaintances had been charged with rape. The brothers and their acquaintances would befriend their victims, take them to their abode and, in concert, rape the young females. Threats would be made to the lives of their victims if they ever spoke about the horrific incidents.

Young Tegan Wagner was one victim who fell prey to these brothers, but through her courage and sheer determination not only sought recourse through the judicial system but also became a beacon for many young women who are afraid to speak out about their sexual assault. I pay homage today to her efforts on behalf of the many unfortunate victims of these heinous crimes. I also hope wholeheartedly that the reforms we are considering today will go some way towards providing a more effective platform for redress for victims. Apart from enduring horrific assault and the pain of dealing with the bitter aftertaste, victims of sexual assault often confront severe obstacles to justice being meted against their assailant. Notably, this occurs only if victims come forward and initiate action against their assailant within the court system. The list of obstacles in obtaining redress through the court system is overwhelming.

One of the principal difficulties lies in the nature of the adversarial system that provides redress for sexual assault victims. For example, the reputation of victims is often called into question and denigrated by lawyers who are engaged in cross-examination. Victims often are made to feel either that they are sexually promiscuous, and thus deserved the assault, or somehow consented to the assault because of the manner in which they dress or their demeanour. Honourable members will agree that this is a really contemporary issue because in today's papers, in the *Australian* particularly, the head Muslim cleric, Sheikh Taj el-Din Al Hilali has said, in effect, that women who are immodestly dressed bring rape upon themselves. He implicitly gave credence to the arguments used by the assailants referred to in Sheehan's book as justification for their brutal assaults. The assailants actually quoted him.

In doing so, the cleric has absolved men who rape women from taking any responsibility for their atrocious actions. In particular, today's *Australian* reported segments of Al Hilali's Ramadan address, citing him as saying that women who "sway suggestively", and wear make-up and immodest dress were to blame for being preyed upon. In a religious address on adultery to about 500 worshippers in Sydney last month at the conclusion of Ramadan, Sheikh Al Hilali is reported to have said:

> If you take out uncovered meat and place it outside on the street, or in the garden or in the park, or in the backyard without a cover, and the cats come and eat it and the flies, whose fault is it, the cats or the uncovered meat? The uncovered meat is the problem.

The Sheikh then said:

> If she was in her room, in her home, in her hijab, no problem would have occurred.

I remind honourable members that Sheikh Al Hilali was admitted to Australia as a result of the personal intervention by Mr Paul Keating. I call upon all moderate Muslims to disassociate themselves from these statements and that underlying attitude toward Australian women. I also call upon those who have responsibility at the Auburn mosque to counsel and discipline the Mufti. There is a pressing need for Muslim people to speak against that attitude. Such comments and their despicable underlying philosophies ought not be tolerated at any level in any culture, particularly this nation where we aspire to place value on womanhood and champion personal responsibility. The Mufti's statements not only denigrate Australian women, but beg the question: Are all Muslim men nothing more than alley cats or flies who prey upon meat?

Other obstacles to recourse lie in procedural rules that have the effect of helping the accused's cause, but at the expense of the victim. For instance, tactical strategies can often be employed to extend trials far beyond the time needed to address the evidence to be tendered. It seems one is limited only by how much one can pay a lawyer. This stretching out of time exacerbates the emotional and often physical ordeal that a victim, usually a woman, undergoes to have the matter laid to rest. Often victims give up following through with the trial and decide not to continue with the prosecution because they are sick and tired of all the publicity surrounding it.

From the bench it is also difficult to intimately understand the hardship suffered by victims in enduring a trial. Defence lawyers are in a position of inherent bias towards the victim by virtue of their engagement by the accused. They often employ tactics to identify holes in the victim's story, and thereby erode the victim's confidence and apparent credibility. Fortunately, the many and varied problems with the current legal system in redressing the grievances of sexual assault victims were given due recognition by the Government in December 2004, and I praise the Government for that. In December 2004, the Government established the Criminal Justice Sexual Assault Offences Taskforce. A number of government and non-government agencies were represented on the task force, including the Attorney General's Department. I will not go through the list because a previous speaker has mentioned the representatives. It was a widespread and significant group.

The task force was set up to examine models for the prosecution of sexual assault offences and also to evaluate initiatives for legislative and procedural change in sexual assault prosecutions in this State. The task force released its findings in December 2005, and I again congratulate the task force on completing its work in a very extensive manner, and for producing its report within 12 months. The report of the task force was entitled, "Responding to sexual assault: the way forward". A great impetus behind the formation of that task force and the reforms we are considering lies in the work of the New South Wales Rape Crisis Centre. Representatives of my office spoke with Karen Willis, the manager of the centre, who indicated her wholehearted acceptance of the bill.

The centre is at the forefront of the issues that victims confront before, during and after the prosecution process. I am glad that the centre supports the initiatives in this bill. Of course, we will see more reforms in the coming months that will go towards implementing more fully the further recommendations handed down by the task force. As mentioned by a previous speaker, that task force made 70 recommendations for change, including a number of legislative amendments. The bill implements the majority of the legislative recommendations made by that task force. However, it should be noted that the bill does not include changes to the law of consent or to the provision of a one-stop-shop and does not expand on legislative provisions dealing with vulnerable witnesses. I look forward to those matters coming before the House.

Rather than exhaustively detail all of the amendments proposed by this legislation, which excellent speakers have already done, in particular the Hon. Greg Donnelly, I draw attention to certain aspects of the bill. The bill amends section 292 of the Criminal Procedure Act 1986 concerning non-publication orders. The amendments will enable non-publication orders to be maintained after a verdict. Clearly, the media will look for any opportunity to sensationalise this type of case to reduce problems that arise from adverse publicity, and "publishing" will be clarified to include dissemination over the Internet.

In the light of that dreadful attack last June by 12 abusive young men upon an intellectually disabled young girl in Werribee, who then published the films of their crimes on the Internet, an appropriate amendment is needed. A concomitant amendment is made to the Crimes Act 1900. Importantly, the bill will create more safeguards during the committal process to make sure that witnesses are not called unnecessarily. For example,

amendments are made to the Criminal Procedure Act 1986 to provide clarity in cases where there is consent between the parties that an alleged victim will not be directed to attend unless the magistrate is also satisfied that there are special reasons in the interests of justice. In that vein, it is of utmost importance to note that judicial officers must be given specific education that is tailored to understand the needs and the position of sexual assault victims.

The bill is said to simplify a number of jury directions that have over time become ponderous, inconsistent and confusing to lay people who form our juries. One such jury direction is known as the Longman warning. This warning is given to the jury when the court considers that, because of the passage of time between the offence and the complaint, it would be dangerous to convict on the complainant's evidence alone. That is unless the jury is satisfied as to the soundness of the evidence after close scrutiny. In contributions to the second reading speech it was said that there have been a number of criticisms of aspects of the Longman warning from the judiciary, practitioners and academics. The bill will provide that such a warning should be given only in cases when a party requests it and the court is satisfied that the party has suffered a significant forensic disadvantage due to the delay. In that context, I draw attention to the comments of the Legislation Review Committee. The report of that committee on this bill noted:

> The bill arguably trespasses upon the rights of an accused in limiting the availability of a Longman direction. However, the Committee also notes that the changes ought to be viewed in the light of an ongoing process of criminal law reform designed to improve the legal system's handling of sexual assault prosecutions.

Of great importance are the amendments to the Evidence (Children) Act 1997 that will allow a recorded interview of a child complainant to be admitted as evidence even when the complainant is over 18. The bill will also give greater support to other vulnerable witnesses in the courtroom, and amendments to the Criminal Procedure Act 1986 are made to that effect. I trust that the measures in this bill will make the court process easier for victims to bear. I look forward to seeing the Government's proposed legislation dealing with the remainder of the recommendations of the task force in the months to come. I hope the Christian Democratic Party can wholeheartedly support those additional amendments as we support this bill.

The Hon. ROBYN PARKER [6.16 p.m.]: I will not test the patience of the House too much by speaking at great length to the very important Criminal Procedure Amendment (Sexual and Other Offences) Bill. I have listened to the contributions of honourable members who have spoken at length about the individual provisions in the legislation. Some honourable members made broad-ranging comments, and I commend them for their consensus and support for the legislation. This is the good part of being a member of Parliament, it is part of a good role we play when we can all come together and work for the good of so many people in our communities. It is sad that sometimes this type of legislation takes much longer than it should to pass through the House.

Unfortunately, this legislation goes nowhere near as far as is needed. However, in the past 18 months or so we have done a lot to build better provisions to make the system fairer and reduce the harm to victims of sexual assault. At the same time we have done a lot to protect the rights of the accused. I am disappointed that with such outstanding membership and goodwill the task force, which reported nearly a year ago, is only now having some of its 70 recommendations come to fruition through this legislation. I am sure it could have progressed much quicker. With the goodwill of everyone it can certainly go much further than it has, albeit without opposition to the amendments to the Act.

I support the philosophy behind the legislation. At times legislation has been named after certain people, but there are too many victims of sexual assault to nominate one for this legislation. One victim of sexual assault is one too many. Many victims have been courageous, and I admire them for their strength and their courage. The idea behind this sort of legislation is to encourage more reporting and more support for the victims, and to speed the process through the courts so that the victims can get on with their lives.

If this bill were to be named after a sexual assault victim it would be called Tegan's law. Tegan Wagner is a shining example of a victim standing up and saying, "Enough is enough; I will not take it any more." That was evident when she stood proudly in front of the court, said her name out loud, and refused to be victimised further. This legislation is for all those victims of sexual assault. We must ensure that the other recommendations in the report of the task force do lot not lie on the table for another year. Although many of them are not legislative recommendations, they must be progressed, in particular, issues such as the definition of "consent".

I have an idea why provisions such as that have not been included in this bill and I have no idea why we cannot progress with a one-stop shop. Nevertheless, I congratulate all those who worked so hard on this legislation, in particular, the task force members, Karen Willis from the Rape Crisis Centre, and others from refuges, family support services and agencies across the board. I thank them all for their input. I wish to address some of the comments made today by some honourable members in debate on this legislation and to express my views on them. Some fine speeches were made. The Hon. Catherine Cusack and other honourable members made some outstanding comments and the speech of my colleague the Hon. Chris Hartcher in the other place was well worded. Freda Adler, a prominent feminist and writer, had this to say of sexual assault:

> It is little wonder that rape is one of the least-reported crimes. Perhaps it is the only crime in which the victim becomes the accused and, in reality, it is she—

Often it is a she—

> who must prove her good reputation, her mental soundness, and her impeccable propriety.

That is what we are talking about today. We must offer protection and encouragement to anyone who reports sexual assault—men and women. I have said on many occasions that legislation should not be gender specific. Nevertheless, statistically the majority of victims that we know of are women. This bill and similar legislation are important because they establish that the burden of sexual assault is too much to bear. It is bad enough that victims have to endure such a crime. It is worse still that they should be subjected to an unsympathetic process that favours on so many levels the rights of the accused over their own. The Criminal Procedure Amendment (Sexual and Other Offences) Bill is one piece of legislation that has the potential to make a hideous crime's aftermath more humane. Shadow Attorney General Chris Hartcher, who led in debate on this legislation in the other place, gave it his cautious endorsement.

As I said, Opposition members do not oppose this bill. We believe strongly in the rights of all victims. This bill represents another lost opportunity, another occasion on which we could have achieved great things. We could have gone much further but instead the Government took the safe option. The 2004 Attorney General's task force into sexual assault, which followed a spate of gang rapes in 2003, made 63 recommendations that were intended to revolutionise the way in which we handle sexual assault in the courts. It is not easy to change the law. This bill is an evolution, a step in the right direction. Of those 63 recommendations only 12 are codified in this bill. As legislators we have a long way to go before victims of sexual assault are treated with the sensitivity that they deserve. As I said earlier, members in the other place said that many of those recommendations are not easily legislated. Nevertheless, they must be fearlessly implemented and adequate resources must be provided to enable us to do so.

Goodwill must be accompanied with resources, services and support otherwise we will be doing only part of our job. This issue must not be politicised or held back in anticipation of an election announcement. It is natural for all members of society to expect the provision of a one-stop shop so that all victims of sexual assault can be dealt with quickly and sensitively. That is a goal towards which we should progress. If we encourage victims to report sexual assaults we must provide the necessary services to support them so that groups such as the Rape Crisis Centre are not inundated with calls or unable to meet the needs of victims in the way that they should. It is all well and good to encourage people to come forward but if we do not provide them with appropriate support and we do not manage their issues sensitively we will be letting them down yet again. Individuals at every level of the court process must receive education in the appropriate handling of sexual assault cases. Our court system is intimidating. It is difficult enough to maintain composure and dignity in the face of our legal system and it is all but impossible to do so in the aftermath of a sexual assault. Those who do so are to be commended for their willpower and conviction. Sadly, many victims are stripped of this fortitude by the act of rape, and the level of witness attrition in sexual assault cases reflects that.

It is a commonly known fact—this is an issue to which I have referred on many occasions in this House—that the reportage rate of intimate violence such as domestic violence or sexual assault is low, around 20 per cent. As my colleague Chris Hartcher said in the other place, this expands considerably the real number of sexual assaults committed in New South Wales each year. Last year there were only 247 sexual assault convictions, so the number of assaults could be as high as 60,000. Latest figures show that 98 per cent of sex offenders walk free. How can that happen in a sane and reasonable society? Would governments move more quickly if 98 per cent of white collar criminals or 98 per cent of violent criminals were to walk free? That would be unacceptable. However, for some reason, sexual assault or violence of that nature goes under the radar and does not even raise an eyebrow. Sexual assaults are increasing in our State and, by extension, the number of offenders who are walking free is increasing.

There are some outstanding provisions in this bill. People in our community who have difficulty communicating are able to engage someone to assist them. People who are disabled or who find it difficult explaining what has happened to them can be provided with assistance. The assistance with which they will be provided, which will balance the scales, will be no different from the assistance they received during the course of their lives, so there is no unfairness for alleged perpetrators. That is one of the finest provisions in this legislation. However, we have not yet scratched the surface. Those who are incapacitated in one way or another are victims yet again because of their lack of power and control over their lives. It is not easy for victims of rape to live with that experience and they will relive that nightmare every day. It is unacceptable and unreasonable for society to expect them to do so again publicly and in the confines of a courtroom only a few feet away from an alleged perpetrator.

This bill makes further provisions with respect to the non-publication of the names of sexual assault complainants and it makes provision for the non-publication of evidence relating to certain sexual proceedings. That has now been extended to online and electronic media. It is a difficult balancing act with the tabloid press. Although the tabloid press might argue otherwise, it is an invasion of privacy to have lurid details of sexual assault splashed across the newspaper or reported on the Internet. On the other hand, if people do not hear about such crimes, they go further under the radar and become less identified in the community. The task force grappled with this problem. We need to weigh up the competing needs, but I believe that the scales tip in favour of the needs of the victims. At the same time, it is important that the media keeps this in the public arena so that it is not hidden behind closed doors. Nevertheless, intimate and individual details need not be included.

The bill clarifies and provides for various jury directions given in certain sexual offence proceedings in relation to complainants. A judge must not warn a jury or make any suggestion to a jury that complainants, as a class, are unreliable witnesses. The proposed section specifically prohibits the giving of a warning to a jury of the danger of convicting on the uncorroborated evidence of a complainant. This is one of the most heartening aspects of the bill. The present manner in which a judge can treat the evidence of victims of rape and their ability to tell a jury that the evidence is unreliable smacks of an age when women were seen to be guilty of assault upon their person if they were inappropriately dressed. It is 2006 and sadly some people still have the view that women who dress provocatively or even dress in a fashionable manner are somehow inviting sexual assault or an invasion of their privacy.

In this day and age some people still suggest that it is an invitation to sexual assault. There is no invitation to sexual assault. The sooner we codify consent the better. There is no way that somebody dressed in any particular way is asking for someone to assault them, to invade their lives, their privacy and their whole being. We know and recognise that that is not acceptable. It is a crime, and people who perpetuate that myth should hang their heads in shame. Members who said that suggestive advertising leads people to think that is an invitation to sexual assault should have a good think about whom they are representing. Would they think it was acceptable for their daughter, wife, relative or friend to be sexually assaulted, and would it be acceptable just because they were wearing a certain item of clothing?

Of course we want to encourage people to look after themselves and to be as safe as possible, but to say that someone is inviting that sort of invasion on their lives is a quantum leap. It is outrageous and I cannot imagine how anyone could think that in this day and age. Young people take risks with their lives. Does that mean that they are automatically waving some sort of flag—I think the term used today was a "lollipop"—to "Come and get me, I'm available?" Of course not. We want to make our society a place where people are free. This is Australia in 2006. Because someone is on a billboard or because they are dressed in a particular way and not covered does not mean that they are easy game. It means that people with that view have a narrow view of life and a very shallow understanding.

There is no acceptable sexual assault. There is no way that a sexual assault is more acceptable when someone is attacked in their home, is protecting themselves or out on a social occasion with someone. A rape is a rape. It does not matter where it occurs or when it occurs. It does not matter what victims were wearing or where they were at the time. What matters is that it is a crime and consent was not granted. It matters very much that our leaders in society and in this Parliament get that view across and tell those who perpetuate that myth that they are wrong and stand up to them. The longer the myth is perpetuated, the more crimes we will see and gang rapes will exist. It reminds me of the time when people thought it was acceptable for people to have HIV-AIDS if it was transmitted through a blood transfusion but it was not acceptable if it was from a homosexual relationship. What is the difference?

I was disappointed to hear the comments of the Hon. Greg Donnelly about sexuality and advertising today. The issue is not about men leering in a suggestive way at an image of a woman; it is not about

advertising. It is about crime and urging the courts and our system to be as supportive as possible. We should not hijack this issue with the shallow interests of some. We must ensure that the legislation protects and nurtures victims. We must build a system that is fair and balanced and supports everybody involved. A number of honourable members referred to a book by Paul Sheehan, who goes through the court system and the difficulties experienced by victims going through that process. That is what this legislation is about. It is not about how people dress, women putting themselves in dangerous situations, suggestive advertising or shallow and weak leadership. It is about all of us working together and standing strong and bravely to make changes on behalf of people who do not deserve—and did not ask for—what happened to them.

In conclusion, I support the legislation. I am excited at the prospect of further legislation. I hope it is introduced as quickly as the current legislation. I hope it is introduced during the next sitting week and we deal with it. Let us not wait for another year and for the election campaign for further recommendations. Let us talk intelligently about ways in which we can improve the system and speed up the process. There are huge waiting lists in the court system. People wait years to have their cases heard, so perhaps there can be some form of specialisation of the system to achieve that aim. We need to do more about education so that there is less need for reporting. If the reporting of assault increases it might mean there are more cases or it might mean more people are prepared to report their assaults.

We want fewer cases and more people prepared to report, but we also want to ensure that they go through the courts system more quickly and efficiently so that they can get on with their lives. We also want to ensure that it is done in a transparent way. Committees established to process complaints must be transparent. We must ensure that processes dealing with sexual assault complaints are as transparent, positive and empathetic as possible. I support the bill and look forward to amending it further. I hope that the Government will bring those amendments to the House as soon as possible so that we can move forward with consensus, showing great leadership and strength on behalf of victims of the heinous crime of sexual assault.

Ms LEE RHIANNON [6.39 p.m.]: The Greens will support the Criminal Procedure Amendment (Sexual and Other Offences) Bill 2006, which makes a number of small reforms to the Criminal Procedure Act to improve the responsiveness of the criminal justice system to victims of sexual assault and related offences. We congratulate the Government on bringing forward these reforms, which extend legal protections for victims of sexual assault. For too long the legal system in New South Wales has compounded the suffering of sexual assault victims with processes that are intimidating, unnecessary and traumatic. Victims are made to tell their story multiple times to different people and often in front of the accused. We hope that these reforms will reduce trauma and stress for victims of sexual assault as they move through the legal system and that the bill will lead, in turn, to greater reporting of sexual offences because victims have more confidence in the legal system.

The Greens urge, however, that much more be done to address the high rates of sexual assault in New South Wales and the problem of underreporting. It is not enough to tweak the system with laws by altering procedures in sexual assault cases. We need strong education programs in the community and we need the Government to restore funding for women's programs and services. Most of the amendments in the bill flow from a series of recommendations in a report released in April this year by the New South Wales Criminal Justice Sexual Offences Task Force. This task force undertook a comprehensive review of the law on sexual offences and was made up of government and community representatives. We note that the New South Wales Rape Crisis Centre, Women's Legal Services and the Law Society of New South Wales were represented on the task force and that there was consensus among these groups about the final recommendations. I have also consulted separately with the Council of Social Service of New South Wales [NCOSS] about the bill and understand that it supports the intent of the legislation.

I am disappointed that this bill implements only a small number of the recommendations of the New South Wales Criminal Justice Sexual Offences Task Force. The Government's briefing paper says that this bill implements a majority of the legislative recommendations made by the task force. But I suspect the Government is taking some poetic licence with this claim. The task force report contains 70 recommendations and, on my count, the bill implements perhaps 15 of them. It also seems that the amendments before us today are the low-hanging fruit from the report—that is, the recommendations that are very difficult for anyone to disagree with and relatively easy and cheap to implement. I understand that the Government intends to introduce a further bill that will pick up on more of the recommendations of the task force. I urge the Government to implement all the recommendations in good faith. I will certainly examine the upcoming bill in detail.

Rates of sexual assault are unacceptably high in New South Wales. Many members who have spoken in the debate have commented on this fact and given graphic accounts. The Australian Bureau of Statistics

revealed that there were 6,824 reported incidents of sexual assault in 2005. Unfortunately, this figure barely scrapes the surface of the actual number of sexual offences. Only a small proportion of sexual assault cases enter the criminal justice system and many of the sexual assaults reported are filtered out at the investigation stage or do not proceed to conviction. Melanie Heenan is the Co-ordinator of the Australian Centre for the Study of Sexual Assault at the Australian Institute of Family Studies. In a paper given in October last year at a conference organised by the Western Australian Federation of Sexual Assault Services, Ms Heenan said:

> … the law has, and often continues to, fail victims of sexual assault. And perhaps women and children in particular given they remain the most highly sexually victimised group in our society. Indeed research on the legal system's responses to the crime of sexual assault show the extent to which the law regularly turns away from victims when they report experiences of sexual assault. And that it turns its head most systematically away from Indigenous women, from women with disabilities, from immigrant women, and from refugee women.

Campaigning and lobbying by women's groups has resulted in a number of reforms to the criminal justice system over the years. But, despite these reforms, rates of reporting and rates of conviction remain appallingly low. The International Violence Against Women Survey was conducted in Australia in 2002-03. A total of 6,677 women participated in the survey and provided information on their experiences of physical and sexual violence. This survey found that only one in seven women who experienced violence from an intimate partner reported it to the police.

Melanie Heenan notes that there has been a decline in the number of people reporting sexual assault. She states that only a quarter of victims who report a sexual assault to the police will see their offender proceeded against and that defendants charged with sexual offences are least likely to plead guilty. Data from the Australian Bureau of Statistics reveals that defendants accused of a sexual offence in the higher criminal courts are three times more likely to be acquitted than defendants for all other offences. This is clearly not good enough.

The bill makes a number of minor reforms to the Criminal Procedure Act. In particular, the Greens support reforms that make it a general rule that victims do not have to give oral evidence at the committal proceedings stage. I note that this amendment picks up the judgment in the recent Supreme Court case *Director of Public Prosecutions v O'Conner*. The Greens also support reforms that allow witnesses to use a communication aid in court when the witnesses ordinarily require such assistance. The bill contains reforms that tighten the rules governing the publication of evidence in sexual assault proceedings to enable non-publication orders to be maintained after a verdict. The bill also refines the law on jury directions to address concerns that judicial directions are often too confusing, inconsistent and reinstate false stereotypes about women. The Greens strongly support all those reforms.

Women who have been sexually assaulted have the right to receive help to recover and seek redress through the criminal justice system. The reforms in the bill represent a small step towards reducing the trauma for victims of sexual assault as they move through the court system. These important reforms will give victims more privacy and respect in court proceedings. We congratulate the Government on this bill. We would be kidding ourselves, however, to think that these reforms are enough. We need a major cultural shift in our legal system—a cultural shift that goes beyond changes to legal procedures and reaches down to the attitudes and approaches of police, lawyers, judges and court personnel.

We need a government that is courageous enough to challenge sexually degrading material and stereotyped gender roles in the media, advertising, education and in broader society. We need a government that educates our children and adults about the complexities of sexual relationships and gender roles. And we need a government that prioritises programs, services and research to assist women and children at risk from violence. We cannot have a debate about sexual offences without talking about the existing inequalities between men and women in New South Wales. The Carr-Iemma Government has abolished the Department for Women, cut funding to the Anti-Discrimination Board and cut staff from the Department of Education and Training Gender Equality Unit. The Minister for Health recently cut funding to the Bessie Smyth Foundation, which is the only service in New South Wales that provides non-directive and non-judgmental pregnancy counselling.

We cannot underestimate the impact that the gutting of these services will have on women and children in New South Wales. The Greens are pleased to support the bill but we also urge the Government to put its money where its mouth is and return funding to these important programs and services. I thank Karen Willis from the New South Wales Rape Crisis Centre and Michelle Burrell from NCOSS for their advice and advocacy regarding this bill and for their work in assisting women who are the victims of sexual assault. I pay tribute to the many victims of sexual assault who have spoken out. I believe their comments have helped to drive the changes in this bill.

The Hon. Dr PETER WONG [6.49 p.m.]: I congratulate the Government on introducing the Criminal Procedure Amendment (Sexual and Other Offences) Bill, which extends the existing protection to complainants in sexual proceedings and provides protection for vulnerable persons in criminal proceedings. I have listened to many excellent speeches by honourable members, and I congratulate them on their wisdom and insight on the issue of sexual assaults and the suffering of victims. I listened carefully to the speech by Reverend the Hon. Dr Gordon Moyes. I totally agree with his sentiments, particularly his remarks about the statements made by Mufti Hilaly. As Reverend the Hon. Dr Gordon Moyes said, Mufti Hilaly's statements denigrate all Australian women. Unfortunately, I believe his statements also denigrate all Muslims in our country. Because of his position and powerful influence, there is a perception that his views are somehow endorsed by the Islamic community in this State, and that is obviously not true.

Yesterday I made an adjournment speech about the giving sermons in English. I indicated that racism, intolerance, sexist remarks and prejudices are not the property of any community. Indeed, the leaking of news of Mufti Hilaly's statements by the Arabic speaking community highlighted that his statements are deemed to be unacceptable by many people of Arabic speaking background. I endorse the remarks by the Hon. Robyn Parker that many different ethnic communities still hold the view that the way one dresses and the place where one happens to be is an invitation to sexual advances or sexual assault. She highlighted the fact that the problem exists in the community at large. I totally support this bill.

Reverend the Hon. FRED NILE [6.52 p.m.]: I also congratulate the Government on introducing the Criminal Procedure Amendment (Sexual and Other Offences) Bill. Together with many members in the community, I had a heavy heart when I saw the interview with the young woman who had been the victim of a gang rape. When she was told that the original case in which the offenders were found guilty had been aborted and she would have to give evidence again she said, "I just can't go through that again." There was a strong possibility that if she did not give evidence again the case would not proceed and the persons would escape conviction. I am pleased that the Government has introduced this legislation, especially the amendments relating to the use of a complainant's previous evidence in a new trial when earlier proceedings have been adjourned, were aborted or resulted in a hung jury. That is an excellent move forward. I hope that it will encourage more rape victims to come forward to lay complaints and to secure more convictions against such individuals. I am pleased to support the bill.

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [6.53 p.m.], in reply: I thank honourable members for their contributions to the debate on the Criminal Procedure Amendment (Sexual and Other Offences) Bill, which is part of the Government's ongoing commitment to ensure that the harm suffered by victims of sexual assault is not compounded by the processes of the criminal justice system. It will make it easier for complainants in sexual assault proceedings to give their evidence, and it will assist them to give the best evidence they can give. It will reduce the stress and trauma associated with the court process and help to prevent the revictimisation that many complainants experience at the hands of the criminal justice system. It is hoped that these measures will increase public confidence in the legal process and lead to the greater reporting of incidents of sexual assault and more successful prosecutions in these matters. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

SPECIAL ADJOURNMENT

Motion by the Hon. Tony Kelly agreed to:

That this House at its rising today do adjourn until Tuesday 14 November 2006 at 2.30 p.m.

WESTERN SYDNEY PARKLANDS BILL

Second Reading

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [6.56 p.m.], on behalf of the Hon. Michael Costa: I move:

That this bill be now read a second time.

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

Leave granted.

This Bill formally establishes the Western Sydney Parklands, a 27-kilometre corridor of open space stretching from Doonside to Leppington.

It also creates a Trust to develop and manage these Parklands for the people of Western Sydney.

This is a major investment for the community in one of the fastest growing regions in Metropolitan Sydney.

The bill brings to fruition more than 30 years of careful planning and prudent land acquisition by successive NSW Governments using the Sydney Region Development Fund.

The parklands have been a long term project for the NSW Government.

The future corridor was first identified in 1968 under the Sydney Region Outline Plan.

Piece by piece the land acquisition program has continued and Western Sydney now boasts one of the largest continuous urban green spaces in the world.

This investment has already provided land for:

- Sydney's major electricity and gas supply lines
- four of the Olympic 2000 venues
- the protection of significant remnants of Sydney's original bushland
- heavily used parks such as the Western Sydney Regional Park
- and the M7 motorway which has delivered major benefits for Western Sydney.

Under the Western Sydney Parklands Bill 2006 the Government is moving to further unlock the benefits of this long-term investment by establishing the Western Sydney Parklands Trust.

The trust will consolidate and better co-ordinate the management of Government land and facilities within the parklands and ensure the protection and development of the parklands for public enjoyment and relaxation.

The Government's long-term vision for the site will guide the Western Sydney Parklands Trust in its management and development of the parklands.

It calls for the restoration of Western Sydney's indigenous and endangered Cumberland Plain Woodlands.

It proposes major sporting hubs to meet existing regional needs and the new demand generated by growth in the north and south west land release areas.

New picnic and play areas will be developed for families in Western Sydney and opportunities for the trust to form partnerships with the private sector or other Government agencies to create venues for entertainment and commercial recreation.

The parklands will also continue to provide land for sustainable agriculture.

I now table the seven sheets of the map marked "Western Sydney Parklands".

These identify the land that will comprise the Western Sydney Parklands and are included in schedule 2 of the bill.

The schedule may be amended in the future but only by regulation or by further Act of Parliament.

Clause 22 (5) of the bill makes it clear that privately owned land does not form part of the parklands until it is acquired and vested in the trust.

A large amount of the land within the parklands will be owned by the new Western Sydney Parklands Trust.

Some land will continue to be owned by existing agencies.

For example:

- Prospect Reservoir will remain with the Sydney Catchment Authority
- Blacktown Olympic Park will remain with Blacktown Council; and
- Kemps Creek Nature Reserve and the Western Sydney Regional Park will remain reserved under the National Parks and Wildlife Act 1974.

However, the Parklands Trust will have the care, control and management of the Western Sydney Regional Park.

The total parkland comprises 5218 hectares which is marginally less than the 5500 hectares originally announced by the former Premier for the following reasons:

- 180 hectares of major roads were originally included in the area of the parkland—namely the M7, M4, Elizabeth Drive and The Horsley Drive. The area occupied by these main roads can not be viewed as parklands.

- Following detailed investigation of each and every precinct since the original announcement, including consultation with community stakeholders, we determined that it is neither practical nor functional for 22 hectares of land in Prospect East—land which is severed from the parklands by the Prospect Highway—to be included in the parklands.

- Investigation of the alignment for the south west rail corridor has identified that there are practical issues with inclusion of the Camden Valley site at the very southern end of the parklands. An area of approximately 80 hectares bisected by the proposed alignment of the new South West Rail route.

In addition Bringelly Road is proposed to be widened at this point. These two infrastructure projects will have the effect of severing the site from the parklands corridor and the remaining site itself will have little value for recreational parkland uses. Allowance for recreational links and where possible, wildlife links will be included in the design of both the rail and road upgrade.

I turn now to the provisions of the bill.

The Western Sydney Parklands Trust will be subject to ministerial direction and control.

The trust will have a board, comprising up to eight members.

There will be there ex officio members:

- the director of the trust; and
- the Directors-General of the Departments of Planning and of Environment and Conservation or their nominees.

The other members will be appointed by the Minister, including the chairperson.

The director of the trust will be responsible for the day-to-day management of the trust subject to the policies and directions of the governing board.

The functions of the trust are set out in part 3 of the bill.

The trust will be responsible for developing the parklands into a multi-use urban parkland.

Its functions reflect the range of proposed uses for the parklands, including:

- many types of sport, recreation and entertainment
- conservation of natural and cultural heritage
- major community events and revenue raising activities to support its ongoing maintenance and improvement.

The trust is to prepare and maintain a plan of management in consultation with the other government agencies that own or manage land within the parklands.

The plan of management will identify key issues and priorities such as the establishment of an ecological network and the creation of an access and circulation network.

The plan will address management matters and set out proposals to generate income for the parklands.

The plan has no effect unless and until adopted by the Minister.

The bill also provides for precinct plans to be prepared for the parklands.

"Precincts" or "sub-precincts" will be created to reflect different characteristics, land uses and ownership.

The trust is to consult any other agencies (including local councils) responsible for land within the precinct and have regard to the statutory functions of those agencies when preparing the plan.

The plan of management and any precinct plans will be reviewed at least once every seven years.

Clause 13 makes specific provision for the trust to enter into a management agreement with another government agency for the agency to manage, maintain or develop land of the trust or vice versa.

For example, it is proposed that NSW Sport and Recreation will continue to manage:

- the Sydney International Shooting Centre
- the Eastern Creek Raceway
- the Western Sydney International Dragway; and
- the Sydney International Equestrian Centre.

There is also provision for the trust to draw upon skills and expertise elsewhere in the NSW public sector or the private sector.

The bill includes safeguards against the disposal of lands vested in the trust so it can remain in public ownership for future generations.

Clause 16 of the bill precludes the trust from selling off or otherwise disposing of its land within the parklands.

The trust may grant a long-term lease or licence over land in the parklands only with the Minister's consent.

The land vested in the trust under the bill is described in schedule 3.

Most of this land is currently owned by the corporation constituted by the Environmental Planning and Assessment Act 1979—namely, the Minister administering that Act.

The bill also preserves existing interests in the land vested in the trust such as easements and leases for infrastructure or heritage properties such as Fairfield City Farm.

The bill also provides a mechanism for the transfer of additional land to the trust in the future.

The bill establishes a Western Sydney Parklands Fund in the Special Deposits Account.

Finally the bill contains broad regulation-making powers to deal with matters such as the regulation of conduct on land within the parklands.

The trust will be able to appoint rangers to enforce any offences.

This park is almost 25 times the size of Centennial Park.

It will be seen by future generations as one of the most significant Government contributions to the people of Western Sydney for decades.

I commend the bill to the House.

The Hon. GREG PEARCE [6.56 p.m.]: The Coalition has long supported, as have all political parties, the development of the Western Sydney parklands. I understand that the original proposals for Sydney's aggregation of parklands in Western Sydney go back to 1968, under the Askin Government. When my colleague the honourable member for Gosford was the environment Minister between 1992 and 1995 he was instrumental in the Coalition's work to establish what was then known as the Urban Parks Agency. The agency's special brief was to establish a number of regional parks in Western Sydney. Following the 1995 election the Carr Government abolished the Urban Parks Agency and established regional parks within the national parks system. The Coalition did not agree with that approach, and it still does not agree with the proposition that regional parks should be appropriately regarded and treated as national parks. While there is a role for national parks in terms of conservation and encouraging biodiversity, the reality is that regional parks have a number of other purposes, including recreation and community purposes. The Government has recognised that by establishing the trust, which is the central purpose of this Western Sydney Parklands Bill.

The Coalition is supportive of the parks system in Western Sydney. I know from personal experience that the Western Sydney parklands are both substantial and significant. For about a year before I entered this place I was a director of ComLand, which was established by the Commonwealth Government to deal with the development and disposal of the Australian Defence Industries site at St Marys. As a director of that company I was intimately involved in the planning of much of the Western Sydney parklands. I note that a number of properties have been added to create the vast Western Sydney Parklands. One of the concerns of the Opposition and commentators is that the trust will be located with the Minister for Planning rather than the Minister for the Environment. We will wait and see whether that is a satisfactory outcome once we know how the Minister works with the regional development of Western Sydney.

In his second reading speech in the other place the Minister set out at length the various purposes for which the land will be used which the Opposition supports, including uses as diverse as conservation, recreation and sustainable agriculture. The Opposition is not completely convinced why some of the land will continue to be owned by existing agencies. For example, Prospect Reservoir will remain with the Sydney Catchment Authority, Blacktown Olympic Park will remain with Blacktown Council, and Kemps Creeks Nature Reserve and the Western Sydney Regional Park will remain reserved under the National Parks and Wildlife Act. Again the Opposition will wait and see how that transpires but I suspect that the central trust will be able to ensure that the broad range of purposes are fulfilled and that the real issue with these parks, that is their management, is given appropriate resourcing so that they do not become locked-up conservation areas.

I note that section 13 of the Act makes provision for a management agreement between the trust and other agencies that have an involvement in the park. I understand it is proposed that NSW Sport and Recreation will continue to manage the Sydney International Shooting Centre, Eastern Creek Raceway, Western Sydney International Dragway and Sydney International Equestrian Centre. I am glad that the Minister has come around to a park management approach, in contrast to his being caught out in August 2006 attempting to sell off part of land that was supposed to be the Sydney Centennial Park of the north-west. He tried to sell about 81 hectares of

Rouse Hill Regional Park, the park that surrounds Rouse Hill, one of Sydney's earliest properties and an area that had been planned as a park for almost 25 years.

In August, there was sensible agitation about and opposition to that land grab, which was obviously another sneaky opportunity for the Government to try to raise extra revenue to fill its budget black hole. Appropriately, the Minister was caught out and did not get an opportunity to proceed with that sale. The Coalition, both as an Opposition and in office as the previous Government, well before my time in this place, has long supported the development of these parks for Western Sydney. Accordingly, it does not oppose the bill.

Reverend the Hon. FRED NILE [7.03 p.m.]: The Christian Democratic Party supports the Western Sydney Parklands Bill. This important bill will establish the Western Sydney Parklands and the Western Sydney Parklands Trust and will set out its objectives and functions. The development of these parklands has gone on for many years. I understand the future corridor was first identified in 1968 under the Sydney Region Outline Plan. This bill formally establishes the Western Sydney Parklands, a 27-kilometre corridor of open space stretching from Doonside to Leppington, and it is appropriate to have a trust to supervise and manage the parklands. There have been 30 years of planning and land acquisition by successive New South Wales governments, both Coalition and Labor, using the Sydney Regional Development Fund.

These parklands will be able to be developed in various ways, unlike a national park or a wilderness area. They are designed to be used and will involve the restoration of the Western Sydney indigenous and endangered Cumberland Plain woodlands. It will include future major sporting hubs to meet existing regional needs, the development of new picnic and play areas for families in Western Sydney and opportunities for the trust to form partnerships with the private sector or other government agencies to create venues for entertainment and commercial recreation. A big advantage in the development of this 30-year plan was to provide land for four venues for the 2000 Olympic Games, which helped to produce the most successful Olympic Games up until this time.

The total parkland comprises 5,218 hectares, which is slightly less than the 5,500 hectares originally announced by the former Premier. Some adjustments were needed to be made because major roads were originally included in the area, namely the M7 and M4. There were also changes relating to land that was affected by the Prospect Highway and a small number of hectares were excised from the 5,500 hectares for the future alignment of the new south-west rail corridor. I asked the Minister who will be on the trust and was advised that the trust board will have up to eight members, with three ex-officio members, that is, the director of the trust and the directors general of the Department of Planning and the Department of Environment and Conservation, or their nominees. Other members, including the chairman, will be appointed by the Minister. The director of the trust will be responsible for the day-to-day management of the trust, subject to the policies and direction of the governing board. This very important bill will benefit families who live in Western Sydney, which is virtually a city of two million people who have endured a severe lack of facilities, by providing multi-use urban parkland. The Christian Democratic Party supports the bill.

Ms SYLVIA HALE [7.08 p.m.]: I speak on behalf of the Greens on the Western Sydney Parklands Bill. The Greens support the creation of the Western Sydney Parklands. We also support the creation of a trust to oversee these parklands, although we do not agree with the structure of the trust as contained in the bill. I thank the Minister's office for meeting with the Greens and providing information about the proposed parklands. There are, however, aspects of this bill about which we have concerns. I foreshadow amendments from the Greens to ensure local government representation on the board, as well as to excise references to the inclusion of some National Parks and Wildlife Reserve Trust land in the bill.

The Western Sydney Parklands will be a great contribution not only to the people living in Western Sydney but to all the residents of New South Wales. We support the planning for the parklands and the uniting of various parcels of land into a whole. With the majority of Sydney residents living in Western Sydney the provision of open space is crucial and demand for it will grow as further areas are opened up for housing. These parklands are therefore an essential part of the development of Western Sydney. The parklands will contain different precincts for different uses including cycleways, picnic grounds, playgrounds and campsites.

The parklands comprise the former Eastern Creek, Prospect, Horsley Park and Hoxton Park open space and special uses corridors. These corridors were first identified in the Sydney region outline plan [SROP] in 1968. In the following 10 years, acquisition went ahead through the Sydney Region Development Fund, with approximately 70 per cent of the identified Western Sydney corridor lands coming into public ownership by 1978. So through a process of acquisitions over many years, and over many governments, the parklands have

finally come together. In 2001, the Sydney regional environmental plan [SREP] No. 31—regional parklands—was prepared. The SREP was a response to residential development reaching the edges of the parklands corridor.

This bill follows on from SREP 31 and specifies what lands are to be united to form the Western Sydney Parklands. Schedule 2 to the bill consists of a series of maps that show where the parklands are and their borders; and schedule 3 lists the deposited plan reference numbers that comprise the parklands. The bill sets up a trust to oversee the parklands. The Greens agree with the aims and objectives of the trust, which include managing the park, improving public access and facilities, and preserving wildlife habitat and Cumberland Plain woodland.

However, we have reservations about the provisions of the Act. They include that it does not provide for any management principles for the trust lands; there is no independent assessment of plans of management; there is no public consultation during the preparation of the plan of management; and, more alarmingly, sections of the bill undermine the permanent protection for existing National Parks and Wildlife Service reserves by allowing any other National Parks and Wildlife Service reserve land to be added to trust lands and to be revoked upon the publication of the addition in the *Government Gazette*. This then removes the protection for these reserves that currently cannot be revoked without an Act of Parliament. It is also unclear in the bill as to how or whether trust lands can be disposed of. They are some of our concerns and the concerns of the National Parks Association amongst other environment groups.

It is ironic that the Minister can give the proposed Western Sydney Parklands Trust the functions of conserving bushland and the cultural and historical heritage of the park, while taking to himself powers to override the very same considerations via the part 3A amendments to the Environmental Planning and Assessment Act. In fact, the Minister can override the whole parklands objectives if he chooses to use his powers under the major State infrastructure provisions of the Environmental Planning and Assessment Act.

The provisions of the bill also aim to "maintain the rural character of parts of the Parklands by allowing sustainable agriculture, horticulture or forestry in the Parklands …" These seem, in the context of the Western Sydney Parklands, to be appropriate. One puzzling aspect, however, relates to existing market gardens within the parklands. If honourable members look at schedule 2, map 4 of the seven maps, they will see some market gardens in Horsley Park. A keyhole-shaped area within the parklands is marked as "excluded". This excluded area is used for farming, but in other parts of the maps they can also see other market gardens surrounding that excluded area but nevertheless inside the parklands. Apparently, the excluded area was originally excluded in the SREP 31 process that I referred to earlier. The areas outside this excluded area are subject to an acquisition schedule of the Sydney Region Development Fund.

I am not sure why the keyhole-shaped area was designated as excluded in the first place. I have been told when the Sydney regional environmental plan 31 was drafted, some of the farm owners inside the excluded area were vociferously opposed to SREP 31. However, there seem to be other farm owners all around the same area, but they have been left within the parklands and their lands are subject to acquisition. The explanation I received by email from the Minister' s office is that:

> the 'keyhole' was excluded from the corridor when the corridor boundaries were originally established in the 1970s and therefore not included in SREP 31 when it was made in 2001.
>
> It is said that the area was excluded in response to pressure from the combined market gardening landowners.

It would be interesting to know just who these landowners are or were. I would love to know. The advice from the Minister's office goes on:

> The imposition of a parkland zoning in the area was very controversial in that part of Western Sydney at the time.
>
> In relation to the future of the keyhole landowners, their land is currently zoned 6d Tourism in Fairfield LEP. 6d allows agriculture and will not allow subdivision.
>
> FUTURE FOR MARKET GARDENING WITHIN THE PARKLANDS
> In some cases land in SREP 31 already acquired by Sydney Regional Development Fund is leased out to market gardeners (so there are market gardening activities happening within SREP 31 and the Parklands).
>
> In the future the Trust may see this as a useful long term management strategy noting that the Parklands vision includes "maintaining sustainable agriculture in the Parklands".

It is good to hear that market gardening and other agricultural activities can continue within the parklands. It would also be good to provide access to some of the farms in the parklands and bring schoolchildren and others in for farm tours, so that they can learn about sustainable agriculture and see where and how food is produced. The Greens are very concerned about the loss of agricultural land in the Sydney basin. As transport becomes more expensive, as oil depletes, it will become increasingly important to grow food close to where we live. We need to think carefully about preserving the agricultural land that we already have within the parklands, especially if the soil is good. We do not want to be covering that precious soil with playing fields at the expense of prime farming land. It would be wise to preserve food production throughout the Sydney Basin. While the parklands may continue to provide leases to market gardeners, the Minister for Planning appears to be standing by and allowing good agricultural land at Pitt Town to be lost to residential development.

I note that an area at the southern end of the parklands was originally included, but has now been removed. This area includes possible rail corridors for the new rail line to Leppington. If the southern-most option for the rail line was chosen as was originally proposed, the park could extend further south. The rail route that is now preferred loops around Denham Court taking the rail line northward into what was to be the southern-most part of the parklands. However, this area is excluded from the parklands. The whole issue of the development of Denham Court as a high-priced residential enclave is of serious concern. Exactly how a former dairy farm that was compulsorily acquired for the rail corridor came to be rezoned and handed back to developers to turn into hugely expensive housing is unclear to me as well as to many residents of the area.

It is certainly unclear to the nearby residents of Leppington, particularly those who are about to have their land compulsorily acquired to accommodate the changed route of the rail line. The development of Denham Court has forced a change to the route originally planned for the line. A number of residents of Leppington are paying for this through the loss in the value of their properties, and the community more generally is paying for it through the loss of the southern-most section of the parklands. Exactly who benefited most from this very strange planning decision is not entirely clear, but perhaps one day a former planning Minister will shed some light on what many regard as a very shady matter.

As I indicated, the Greens support the formation of the trust to oversee the parklands, but we note that there is no provision for local government representation on the trust's board. This is a glaring omission and one that should be rectified. I would have thought it appropriate that the Minister would have designated three positions on the trust board for local councils, especially Blacktown, Fairfield and Liverpool councils, in whose local government areas the parklands are located. The Greens will move an amendment to ensure that those key councils are represented on the trust's board by adding these positions to the three ministerial positions and five other positions that make up the board. The raising of revenue from the parklands is one of the trust's roles. The trust is expected:

> to undertake or provide, or facilitate the undertaking or provision of, commercial, retail and transport activities and facilities in or in relation to the Parklands, with the object of supporting the viability of the management of the Parklands.

If that means the trust is expected to cover its costs, for example by providing coin-operated barbeques, then that is acceptable. But the Greens are concerned that a plethora of charges may be imposed on park users. This would discourage people from visiting the parklands and impact especially on low-income families. Nor should the Government make sporting club leases too financially onerous. We need to encourage people to play sport and ensure accessibility to sporting facilities. Although money generated from such activities goes back to the parklands and the Western Sydney Development fund, the focus must be on providing access for as many members of the community as possible.

I would hope that, when creating new sports grounds, kiosks and the like, the trust will make sure that sports grounds meet the most stringent standards for water and energy conservation. The Western Sydney Parklands should be sustainable, using only recycled water and solar power. In this way the parklands will play an important role in counteracting, though not justifying, some of the less energy-efficient practices in the surrounding suburbs.

Another concern of the Greens relates to clauses 36 and 37, which allow lands currently gazetted as national park to have their status as a national park revoked if they are included in schedule 3 to this Act. In the Greens' view, designation as a national park is designation in perpetuity. Land that is designated national park has a higher level of environmental protection than land reserved under this bill. Revoking a national park designation should only occur in exceptional circumstances and only by decision of the Parliament by way of a specific Act. Clauses 36 and 37 of the bill water down the current level of protection for New South Wales national parks and should be opposed. The Greens will therefore move an amendment to remove the references

to the National Parks and Wildlife Act 1974. Clause 17 deals with the use of trust land for biodiversity banking schemes, carbon sequestration and related purposes. This provision deserves comment. Clause 17 provides:

> (1) The Trust may, with the consent of the Minister, do any or all of the following:
>
> (a) establish or provide habitat for threatened species, populations or communities, including for the purposes of any biodiversity banking scheme or other similar scheme that involves the provision of compensatory habitat,
>
> (b) establish and maintain tree plantations on Trust land (including Trust land within the Parklands) for the purposes of carbon sequestration (and any incidental purposes) and participate in any greenhouse gas emissions trading scheme,
>
> (c) create, acquire, hold, sell or otherwise deal with or trade in carbon sequestration rights within the meaning of section 87A of the Conveyancing Act 1919,
>
> (d) enter into any arrangement, give any undertaking or do any other thing for the purpose of complying with the abatement certificate scheme established under Part 8A of the Electricity Supply Act 1995 or any other scheme intended to promote the reduction of greenhouse gas emissions, or offset greenhouse gas emissions, established by or under an Act of this State or any other State, or a Territory or the Commonwealth or of another country.

Clause 17 explicitly permits the trust to make available pieces of the parkland for the purposes of biobanking and carbon trading. In the Greens' view, existing reserved parkland such as this should not be used for these purposes. If biobanking is to be put in place, it should create new reserved areas, not just re-badge existing ones.

I echo my colleague Ian Cohen's remarks about another piece of legislation: biobanking could be seen as a privatisation of public interest in leasehold lands. Ian Cohen has described these sorts of sequestration proposals as "green-washing". The New South Wales Government carries on blithely burning coal, and exporting coal so that other countries can burn it, and keeps coal cheap so that renewable energies stay relatively expensive. The Treasurer was almost beside himself the other day insisting that economic growth is more important than the future of the planet and attacking the Greens for daring to think of our global responsibility as a coal-rich State.

Biobanking is based on the assumption that it is acceptable to destroy one area of habitat if another area can be set aside elsewhere. It justifies not reducing carbon emissions. It is truly a "robbing Peter to pay Paul" approach. But it is not a correct approach, because greenhouse gases, at their current level, are causing global warming, which will produce, if unchecked, catastrophic consequences for the country and the planet. We need to stop living in denial and start to reduce, not simply maintain, greenhouse gas emissions. And we need to do it now rather than later.

For similar reasons the Greens also have concerns about the carbon trading system. The system involves the issuing of carbon credits for such activities as afforestation and reforestation. It requires an assessment system to answer questions such as: Was the forest established after 1990? How quickly is it growing? How much carbon is it sequestering? Credits are issued to the individual or company growing the forests. These credits can be sold to a carbon emitter such as a power company, which can use them to offset its own excessive carbon emissions. Emissions trading schemes will, by their very nature, increasingly encourage large-scale commercial plantation projects. But will these large-scale plantings provide a solution? Will they be of the appropriate trees? Native eucalypts are fast growing and can absorb more carbon in the first 10 to 12 years, but in the long term trees such as pines may be superior.

We should also take into account the fact that large monocultures can themselves generate other ecological issues, such as reduced biodiversity. One must ask whether income-generating activities required of the trust will take priority over more benign activities in the park. If companies can simply offset their carbon emissions by buying credits, hypothetically from the Western Sydney Parkland Trust or a subsidiary company, this may act as a disincentive to keep trying to reduce those emissions.

Many environmentalists are concerned that carbon sequestration programs are merely band-aid solutions to the problems of carbon dioxide emissions. Many companies may well find it more economic to reject energy-saving technologies and instead invest in carbon credits to avoid the perceived high cost of energy efficiency. The policy objective should be to abate climate change, not simply to create a new tradeable commodity.

When looking at this aspect of the bill, we should also consider how safe carbon sequestration is, since carbon storage and sinks are limited by time and space and can themselves create other environmental problems.

The fact that it will buy some time to allow investigation of other measures and technologies that can physically reduce carbon dioxide output does not mean that carbon sequestration is a solution to global warming or to carbon dioxide emissions. The trading of carbon is simply a way to slow down. We will need to confront the inevitable realisation that we must switch to renewable energy quickly if our species is to avoid the triple effects of global warming, declining oil production, and growing water shortages.

Trading in carbon and living carbon-neutrally is not enough. We have to reduce carbon and fossil fuel emissions, not create new markets for trading away the damage. The Greens will move two amendments to the bill: one to increase local government representation on the trust, and the second to ensure that national park reserve land cannot be added into trust lands, thereby reducing the level of protection afforded to them.

Debate adjourned on motion by the Hon. Peter Primrose.

CRIMINAL PROCEDURE AMENDMENT (SEXUAL AND OTHER OFFENCES) BILL

Personal Explanation

The Hon. GREG DONNELLY, by leave: In my contribution this evening to the Criminal Procedure Amendment (Sexual and Other Offences) Bill I believe I said I had spoken to the Chief Executive Officer of the Advertising Standards Bureau about the Lee Jeans complaint. I meant to say that I had spoken to a person in the office of the Advertising Standards Bureau about the complaints and how the bureau dealt with them.

ADJOURNMENT

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [7.31 p.m.]: I move:

That this House do now adjourn.

HILLTOP WAR MEMORIAL HALL AND COMMEMORATIVE WALL

The Hon. DAVID CLARKE [7.31 p.m.]: Australia is in many respects a blessed nation. It is a peaceful, prosperous and democratic society where we can think and worship according to our conscience. A major reason for this enviable position is because of the sacrifice of our service men and women who, during the short history of our nation, have gone off to fight for our freedom and in defence of our values and in great numbers have sacrificed their lives in doing so.

It is appropriate that those who have given up their lives for our nation in this way should be remembered and honoured. Indeed, Australia has a strong and admirable tradition in doing so. Anzac Day is one way this tradition of remembrance is observed. Another way is through the erection of war memorials, which can take many forms including traditional monuments, clock towers, plaques, walls, halls and buildings, and even special walkways such as the Kokoda Track Memorial Walkway at Concord. Probably every town and most suburbs of our cities have a war memorial of some description to honour those who have given their lives in defence of our nation.

Tonight I want to bring to the attention of the Parliament the struggle presently being waged by one little community to preserve and protect its war memorial. I want to highlight the determination and dedication of the people of this community to ensure that their war memorial, which they built and paid for and have maintained for 60 years, does not now disappear because of the overbearing actions of an uncaring bureaucracy.

I am talking about the War Memorial Hall and War Memorial Commemorative Wall of the community of Hilltop in the Southern Highlands, in the Wingecarribee shire. The Hilltop War Memorial Hall was built in 1946 by World War II returned servicemen and their families. It was built on land and constructed from materials donated by Hilltop residents. In the decades following its opening in 1947 up until the present time, it has been in more or less continuous use as a meeting place for community and school groups and as a place for church services, weddings and musical events. At all times the community has had an overriding cognisance of it being a place of special significance and reverence because of its status as a war memorial built by ex-servicemen. When the War Memorial Hall has required renovation and refurbishment the local community has ensured that the funds were raised to do so.

In the early 1990s the Wingecarribee Shire Council took legal ownership of the property as part of an arrangement with the local residents by which the council undertook to preserve it in perpetuity, although local residents continued to maintain it. In 1999 the Hilltop community decided to add to the significance of the site by erecting alongside the War Memorial Hall a magnificent war memorial curved brick wall. The local residents provided $27,000 in materials, services and financial donations that were needed to bring their vision to fruition. For this project they received inspiration and leadership from Keith Reeves, a World War II veteran, and his wife, Sharnee, who was awarded an Order of Australia Medal for her services to the community. On 13 February 2000 the memorial wall was officially opened by then Federal Minister for Finance, John Fahey, before an audience of over 1,000, including distinguished leaders such as RSL President Rusty Priest. Also attending were 100 trainee naval officers from HMAS *Creswell* who formed an honour guard.

A special feature of the wall is the 25 plaques that commemorate every war and overseas police action in which Australians have been involved, going back to the Boer War. The plaques are unique because they pay homage to all those who served in time of war, including the Women's Land Army, the Salvation Army and the Red Cross. Since 1999 the war memorial has been the site of an annual Anzac Day commemoration attended by about 300 people. Clearly, this special place has become a focal point of meaning, reverence and history to the local community. One can well understand why.

However, in recent times dark clouds have been gathering over the Hilltop War Memorial Hall and Commemorative Wall. The Wingecarribee Shire Council is intent on selling the property. The locals see this as a betrayal of them and of the memory of those who gave their lives for Australia and are commemorated by this memorial site. An action group representing the locals and headed by popular local radio identity Jim Angel are determined that the local residents and the memory of those who gave their lives will not be betrayed. They have organised large protest meetings, conducted local surveys, which confirm support, and initiated letter-writing campaigns. Mayor Gordon Lewis and two other councillors have backed this citizens' campaign.

The local community radio station, 2WKT, and the local commercial radio station, 2ST, have given support, as has the *Southern Highland News*. Local parliamentarians—Federal member Alby Schultz and State members Peter Seaton and the Hon. Charlie Lynn—have also joined in the campaign. Organisations such as the Mittagong RSL Sub-branch, the Vietnam Veterans Association and the National Servicemen's Association have likewise joined the campaign.

Jan Baker, who is the media organiser for the Hilltop citizen's campaign, supported by her husband, Peter, has been a tower of strength in this fight. Only a few weeks ago I personally witnessed her movingly convince some 400 delegates attending the Liberal Party State Council Meeting to unanimously endorse a resolution to save the war memorial. Jan Baker is a lady of boundless energy and deep patriotism. How lucky we are to have people like her and others who, although not personally known to me, are prepared to take up this righteous cause. We need to get behind them in their campaign.

The memorial is no less important to the Hilltop community than the Cenotaph Memorial in Martin Place is to the people of New South Wales. I congratulate those fighting to save this memorial. I honour them for their commitment to the memory of our ex-servicemen and ex-servicewomen who made the supreme sacrifice. I uphold and exalt them as worthy custodians of the spirit of Gallipoli and Kokoda. I hope they succeed in saving the Hilltop War Memorial Hall and Commemorative Wall.

CHERRYBROOK LANTERN NIGHT

The Hon. HENRY TSANG (Parliamentary Secretary) [7.36 p.m.]: It was with great pleasure that I represented the Premier at the 2006 Cherrybrook Lantern Night last Saturday. Lantern Night is an annual community festival organised by the Cherrybrook Chinese Community Association, with the support of Hornsby Shire Council and several community organisations. Lantern Night was first held in 1992 to celebrate the traditional Chinese Moon Festival. It later developed into a program for children during New South Wales Children's Week. This year's celebrations included a food fair, performances by local schools, a lion dance, a raffle draw, a lantern procession and fireworks.

In Asia the traditional Moon Festival is celebrated on the fifteenth day of the eighth lunar month in the year. There are several tales as to its origins and they cover several millennia of Chinese history. One of the most famous versions is about Chang'e, the mythical moon goddess of immortality. In western culture we have often been preoccupied with the man in the moon. In Chinese tradition we are more familiar with idolising the dream woman on the moon—Chang'e. The Lantern Festival, the mid-Autumn Festival, the Moon Festival, and

the mid-August Festival are but a few of its inceptions. The essence of the festivals is the same: spending and enjoying time with family and friends. This year's festival again saw children wandering around with their lanterns in the dark. The thrust of Lantern Night is to encourage young children to enjoy themselves making or buying their lanterns and to participate in the competition as to which is the most beautiful lantern on the night. Like most Chinese festivals, spending time together as a family is the key. With the approaching winter, the mid-Autumn festival is enjoyed outdoors.

The Lantern Festival has worked very well in Cherrybrook, with children from different schools participating with their own lanterns in many activities. However, unlike the celebrations in China, where moon cakes are baked and distributed to friends and relatives, the Cherrybrook festival is celebrated in true Australian style. Rather than moon cakes, people indulge in the great Australian tradition of barbequed sausages and onions. A highlight of the evening's program was the national anthem played by lone bagpiper Lachlan Liu, in recognition of the area's early settlers from Scotland. Members of the community sang both stanzas of our National Anthem. It is always good to be reminded of these rarely sung lines:

> For those who've come across the seas
> We've boundless plains to share;
> With courage let us all combine
> To Advance Australia Fair.

Since the Cherrybrook Chinese Community Association was formed in 1989, it has developed an exemplary array of cultural, educational, sporting and community services. The association promotes Chinese culture, community services and, in an overarching sense, harmony in our multicultural society. It also plays a vital role in assisting the Chinese-speaking community to maintain its identity and heritage. The Lantern Night is just one example of the many annual, community-wide functions organised by the association.

The Chinese community plays an incredibly vibrant and active part in New South Wales life. As we know, Chinese languages are now the most widely spoken group of languages after English in Sydney. It is often overlooked that there is an equally high degree of diversity within the Chinese community in relation to origin and background as there is the wider community. The Chinese community in Australia comes from a variety of cultural backgrounds and different countries throughout Asia including Malaysia, Indonesia, Singapore, Vietnam, even East Timor, as well as mainland China and Hong Kong. Its valuable contribution to Australian life for more than 150 years is a great example of multiculturalism working well in our community. It is an illustration of how a group of community-minded people from a non-English speaking background work well to share their culture with the wider community.

New South Wales is proud of this large and respected community. I would like to congratulate the organiser of the Lantern Night, the Cherrybrook Chinese Community Association, in particular its committee comprising Ms Jenny Lau, Mr Lebow Fok, Mr Mark Lau, Mrs Queenie Seto and Mr Ken Yap. Its objectives to provide recreational, cultural, educational and welfare activities for residents in the Cherrybrook area is to be commended. On behalf of the Premier and the Government, I again congratulate the Cherrybrook Chinese Community Association and Hornsby Council on their hard work and an enjoyable and successful event. I encourage them to nominate Lachlan Liu in the coming Chinese New Year event as the most outstanding Chinese-Australian.

SHEIKH HILALI SERMON

The Hon. DAVID OLDFIELD [7.41 p.m.]: Disturbing events have led me to deviate from the recent theme of my adjournment speeches as today's report of a translated sermon by Sheikh Hilali of the Lakemba mosque becomes public. I am grateful that many, including leaders within the Muslim community, have finally and appropriately spoken out against this evil man. For more than five years I have been issuing media releases and speaking publicly of the need to remove this living, breathing blight from the Australian landscape. My previous calls for him to be deported are suddenly now on the agenda of various people, including the Federal Sex Discrimination Commissioner, although nowadays I would use the term "exported", as "deported" attaches undeserved human characteristics to this vile creature. While this particular sermon of Hilali's that has sparked understandable outrage reportedly went on for some 17 minutes, as he explained and excused the rape of Australian girls, this part particularly featured in the media:

> If you take out uncovered meat and place it outside on the street, or in the garden or in the park, or in the backyard without cover, and the cats come and eat it ... whose fault is it, the cat's or the uncovered meat? The meat is the problem. If she was in her room, in her home, in her hajib, no problem would have occurred.

Strangely, this inconceivably offensive statement, while aimed at non-Muslim women, actually suggests the Sheikh thinks of Muslim women as meat as well. This is not his first offence. Far from it; he has been caught on numerous occasions. Such hate towards women has spewed forth from him time and again. Perhaps worse is that the history of these events has shown nothing is ever done about him. We are continually bombarded by people saying how terrible he is and how something should be done. Perhaps this time the atmosphere will be tense enough and the calls will be loud enough for this vermin's career to be brought to an end.

Have we misunderstood the meaning of Hilali's words? The President of the Islamic Friendship Council of Australia, Keysar Trad, would have us believe Hilali's sermon was misrepresented. What a victim poor old Sheikh Hilali is, to have been so misunderstood on so many things on so many occasions. If it were not so serious, it would be funny. Be assured, Mr Trad, we know exactly what Sheikh Hilali said and we know exactly what it means. Your dishonest defence of him is not believable and simply places you also at the scene of the crime. In matters such as these I have a tendency to use strong, descriptive language when referring to scum of Hilali's ilk. I make no apology in that regard. I simply say what so many others would like to say. Hilali's ongoing actions do not warrant any form of sugar coating. The Keysar Trad "misrepresented" defence clearly has not gone down very well, as Hilali is now saying he was only referring to prostitutes.

Rape is a horrendous violence-based crime against women. It is no less a crime based on one's occupation. Hilali offering this as an explanation simply exposes more of his unsavoury character. Hilali considers females to be dramatically less than men. Let it be clearly understood, Hilali is intensely pathologically anti-female. It is a terrible thought, but while, no doubt, he and his views would be accepted in areas of the Middle East, in Australian society he must be considered a sociopath. If this "thing" were some drunken idiot, mouthing off about his hatred of women and telling all around him how they are "looking for it" and deserve to be raped, we would all be disgusted and that would probably be it. But Hilali is not some drunken idiot; he is a religious leader with thousands of parishioners who believe what he tells them. He is a danger to Australian women and he is an enemy to our way of life. Indeed, he is as much our enemy as any terrorist. He cannot be changed; he will not reform. He must not be left in a place of power and influence. Whoever is able to do so should remove him.

MELBOURNE CUP ON TOUR

The Hon. RICK COLLESS [7.46 p.m.]: Honourable members may have seen an interesting article in the *Daily Telegraph* today about the Melbourne Cup on tour through Australia. The story by Peter Trute outlined how the cup that stops a nation has stopped the state's smallest town, with a population of just five people. Peter Trute referred to the town of Come By Chance as a remote northern New South Wales outpost, but I am not sure I agree with that description. Come by Chance sits at the junction of two creeks, Gidginbilla Creek and Bungle Gully Creek. When my ancestor William Colless arrived there in 1862 there was little chance of happening across any unsettled land as there were already a number of cattle runs in the district around what is now the village of Come By Chance. William Colless finally acquired the last remaining unselected plot of land and he named his new station Come by Chance.

There are many family folklore stories about how the name was selected, and the one that filtered through my side of the Colless family says that they were moving a large mob of cattle through the open sandy woodlands, now known as the Pilliga Scrub, during very droughty conditions when by chance they came upon a large plain with abundant grass, and the name stuck. William Colless set up his headquarters on the site, and eventually it was developed into a post office, hotel, police station, blacksmith's shop and cemetery, and many of the early homes were on land owned by William Colless. At that stage it was considered to be the only privately owned town in the southern hemisphere. There have been many other stories about Come By Chance that have filtered through the family folklore over the years.

One such story relates to a cricket team my great, great, grandfather played in for Come By Chance. There were seven members named Colless and five members named Evans in that team—or was it five members named Colless and seven members named Evans'? The Come By Chance picnic races have been held for at least 55 years, and at the end of September every year thousands of people converge on this historic village to cheer home the winner of the Come By Chance Picnic Cup. The Cumby Picnics, as they are colloquially known, were started by a number of locals including another well-known name in the northwest, Albie Slack-Smith, who owned Golden Slipper favourite Brooklyn Maid. Come By Chance has a proud tradition with the Melbourne Cup. Two winners being bred on nearby stations, Poseidon in 1906 and Evening Peal in 1956.

The Melbourne Cup, the real 18-carat-gold cup, arrived at Come By Chance two days ago on 24 October as part of a nationwide tour, following an unbeatable "Cumby" argument put to the Victorian Racing Club as part of a nationwide tour in the lead up to this year's Melbourne Cup carnival. The Come By Chance Picnic Race Club President, Ken Waterford, is to be congratulated on coordinating a magnificent effort in securing the cup to visit a small, but vitally important village such as Come By Chance. I am sure all honourable members of this House will join with me in congratulating Ken and his committee and the community of Come By Chance on securing such a monumental event as a visit to Come By Chance by the real, 18-carat-gold Melbourne Cup. Banjo Patterson wrote a poem about "Cumby", although there is some conjecture about whether he ever actually visited there. I will finish my contribution with the last two verses:

Though we work and toil and hustle in our life of haste and bustle,
All that makes our life worth living comes unstriven for and free;
Man may weary and importune, but the fickle goddess
Fortune Deals him out his pain or pleasure, careless what his worth may be.

All the happy times entrancing, days of sport and nights of dancing,
Moonlit rides and stolen kisses, pouting lips and loving glance:
When you think of these be certain you have looked behind the curtain,
You have had the luck to linger just a while in "Come-by-chance".

PUTTING SKIRTS ON THE SACRED BENCHES PROJECT

The Hon. JAN BURNSWOODS [7.51 p.m.]: The women of New South Wales gained the right to vote in 1902, but were not permitted to sit in Parliament until 1918. It was then another seven years until Nationalist Party candidate Millicent Preston-Stanley was elected to the Legislative Assembly in 1925 by the people of the eastern suburbs. Obviously, she was the first woman to enter the New South Wales Parliament. She made a realistic comment about the impact she expected to have. She said:

> I'm not fool enough to suppose my going into the House is going to make any sweeping alteration. The heavens won't fall because a woman's skirts rustle on the sacred benches, so long the sacrosanct seats of the lords of creation.

I read that because I want to refer to the web site dealing with women candidates for the New South Wales Parliament, which is an initiative of the Women's Archives Project organised through the National Foundation of Women utilising a grant from the Sesquicentenary Fund. Honourable members may have had the opportunity to attend the launch of that site during the various sesquicentenary celebrations. The site was launched by the Governor Marie Bashir. The grant was not enough to complete the project. So far it has dealt only with candidates for the Legislative Assembly. It is difficult to find many of those candidates, particularly those representing smaller parties. The web site is well worth looking at. It contains some fascinating information about the women elected to the Parliament. It is relatively easy to find information about the successful candidates. It is also contains fascinating information about the lives and careers of the women who were unsuccessful in their bid for a seat in this Parliament.

Last night I had the pleasure of hosting a function in the President's dining room to raise funds for the Australian Women's Archive Project so that the Putting Skirts on the Sacred Benches project can be continued. The aim is to fill in the gaps from the time when women first ran for Parliament. The site contains biographical information about 450 of the 763 women candidates who are listed. Last night's function was particularly interesting because we invited a number of former women members of the New South Wales Parliament from the across the political spectrum. It was a great pleasure to see women such as Wendy Machin from the National Party, Dorothy Issaksen, the former Labor Party Whip in the Legislative Council, Elisabeth Kirkby, the former Australian Democrat from the Legislative Council and a number of sitting members, including Sandra Nori, the Minister for Women, the President of the Legislative Council and other colleagues. Patricia Forsythe attended as the most recent woman to become a former member of the Legislative Council.

If members of this House and others have access to biographical information about former candidates, it would be very much appreciated. We will certainly be collecting information on the women who have run for the Legislative Council since it became an elective Chamber in the late 1970s. We also have the huge task, of course, of collecting information about the women whose details have not been discovered. When that task is completed there will be a great deal of work to be done on other women, for example, women in business, nurses and teachers. They are women who have played a major role in our community but who are often not recognised. One of the problems confronted when tracking down these women is that, unfortunately, many changed their name when they married. If they ran for Parliament or had any other career under their maiden name, it is almost impossible to track them down through newspapers and other sources. [*Time expired.*]

PUBLIC SCHOOL SCRIPTURE CLASS ALTERNATIVES

Ms LEE RHIANNON [7.56 p.m.]: In the early 1960s, as a young girl at Bronte Primary School, I was offered the rich experience of cleaning the school toilets. I was the only child in the school who did not attend scripture classes. Luckily for me, toilet cleaning did not last long after my parents complained. For years thousands of students in public schools around the State have been sitting idle one hour a week because they do not want to attend scripture classes. Those students sit idle because of a government requirement that schools do not offer alternative timetabled lessons during the allocated hour for scripture each week. In an era where there are many moans about a "crowded curriculum" this situation should be addressed by the Iemma Government.

It is something parents feel passionate about. The Federation of Parents and Citizens Associations of New South Wales conducted a survey of parents on this issue that was reported in the *Sydney Morning Herald*. The survey found that 59 percent of parents thought it was "important" or "very important" that their child be given the option of attending a secular, ethics-based class and 79 per cent of parents said they would support their children being exposed to faiths other than their own. Almost one-quarter of parents said they would like to see the teaching of faiths other than their own.

The parents and citizens federation has called on the Minister for Education and Training, Carmel Tebbutt, to provide an alternative to the teaching of morals in Christian-based scripture classes for students not attending scripture. The St James Ethics Centre has also knocked on the door of Government with the offer to prepare an ethics course to be taught during scripture time. But Ms Tebbutt has rejected this proposal. Today I received answers to questions on notice I put to Ms Tebbutt. These answers reveal that two churches and the InterChurch Commission on Religious Education have written to the Minister to request that an ethics course not be allowed to run concurrently. The Minister also indicated that she does not support a survey of parents to canvass support for ethics or comparative religion courses as an alternative to scripture.

This rejection goes against recommendations of the Rawlinson Committee that was established in 1980 to review religion in education in New South Wales. Recently Queensland attempted to change its Education Act to broaden religious instruction to take in beliefs other than Christianity, but the bill was withdrawn after an outcry from churches. Public schools are the home of universal values. The elevation of individual religions runs counter to the very mission of public education and is offensive to many parents. In January, in a bid to curb antisocial behaviour, Premier Iemma responded to the Cronulla riots with a plan to make it compulsory to play the national anthem at school assemblies, and to teach students about respect and responsibility.

The rot of the Premier's proposal is sharply accentuated when it is put against his Government's refusal to introduce an optional ethics course for students during scripture time. The Minister for Education and Training is most vulnerable on this issue in her very own electorate of Marrickville. In the 2001 census, Marrickville recorded the highest proportion of people claiming to have no religion—21.2 per cent. Schools in the Minister's electorate must be chock-a-block with students whose parents would prefer their children to receive an education in ethics rather than to sit idle. In August, Ms Tebbutt's Labor colleagues on Marrickville Council voted against a motion calling on the Government to review these archaic policies and to allow a non-religious alternative to be taught.

Public schools do best when they bring together the diverse range of world views that make up Australian society. Excluding some beliefs because they do not satisfy a narrow definition of a religion is unfair and dangerous. The New South Wales Government is effectively mandating what children will or will not believe. It is time for the Iemma Government to renegotiate its longstanding deal with churches, that is, excluding non-religious education options from public schools. It is time it stood up to the entrenched power of organised religion and offered secular alternatives in public schools. Parents who are not part of any organised religion are demanding a much better deal. Their children should be given access to secular, ethics-based classes.

FARM SITTERS AUSTRALIA

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.00 p.m.]: In the brief period that remains for this debate, I wish to draw to the attention of this House an excellent organisation, Farm Sitters Australia. During the current drought, it is problematic for people to leave their farms. Farm Sitters provides a farm caretaking service. Farmers who have moved off their land to relocate to the coast want to be able to go to farmers who are persevering and say, "We want to help you. Why don't we exchange houses?" The exchange

could provide welcome relief for farmers who cannot spare the money to take a holiday or to employ someone as a caretaker. They will be able to swap houses and take a break on the coast.

Although it might be difficult for some people to understand why farmers would want to leave dusty and drought conditions to relocate to the coast after they have handed their farm over to their children, many farmers do, and they retain their tremendous expertise. Phillip Kelly is a businessman at Landmark in Inverell. He and his wife have set up Farm Sitters Australia to help farmers. I heartily congratulate them because more than anything else, during this drought, it is important for people to phone their friends on the land to let them know they support them.

[*Time for debate expired.*]

Motion agreed to.

The House adjourned at 8.01 p.m. until Tuesday 14 November 2006 at 2.30 p.m.