

# LEGISLATIVE COUNCIL

Wednesday 30 May 2007

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**The President (The Hon. Peter Thomas Primrose)** took the chair at 11.00 a.m.

**The President** read the Prayers.

## COMMISSION FOR CHILDREN AND YOUNG PEOPLE AMENDMENT (PARLIAMENTARY JOINT COMMITTEE) BILL 2007

### SENATORS' ELECTIONS AMENDMENT BILL 2007

### TRANSPORT ADMINISTRATION AMENDMENT (PORTFOLIO MINISTER) BILL 2007

### PROFESSIONAL STANDARDS AMENDMENT (MUTUAL RECOGNITION) BILL 2007

### CRIMINAL PROCEDURE AMENDMENT (VULNERABLE PERSONS) BILL 2007

### MENTAL HEALTH BILL 2007

### PRIVATE HEALTH FACILITIES BILL 2007

### ANTI-DISCRIMINATION AMENDMENT (OFFENDER COMPENSATION) BILL 2007

**Bills received from the Legislative Assembly.**

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

**Motion, by leave, 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.**

**Second readings set down as an order of the day for a later time.**

## STANDING COMMITTEE ON LAW AND JUSTICE

### Reference

**Motion by the Hon. Tony Kelly, on behalf of the Hon. John Della Bosca, agreed to:**

1. That, in accordance with section 68 of the Motor Accidents (Lifetime Care and Support) Act 2006, the Standing Committee on Law and Justice be designated as the Legislative Council committee to supervise the exercise of the functions of the Lifetime Care and Support Authority of New South Wales and the Lifetime Care and Support Advisory Council of New South Wales under the Act.
2. That the terms of reference of the committee in relation to these functions be:
  - (a) to monitor and review the exercise by the authority and council of their functions,
  - (b) to report to the House, with such comments as it thinks fit, on any matter appertaining to the authority or council or connected with the exercise of their functions to which, in the opinion of the committee, the attention of the House should be directed, and
  - (c) to examine each annual or other report of the authority and council and report to the House on any matter appearing in, or arising out of, any such report.

3. That the committee report to the House in relation to the exercise of its functions under this resolution at least once each year.
4. That nothing in this resolution authorises the committee to investigate a particular participant, or application for participation, in the Lifetime Care and Support Scheme provided for by the Motor Accidents (Lifetime Care and Support) Act 2006.

## STANDING COMMITTEE ON LAW AND JUSTICE

### Reference

#### **Motion by the Hon. Tony Kelly, on behalf of the Hon. John Della Bosca, agreed to:**

1. That, in accordance with the provisions of section 210 of the Motor Accidents Compensation Act 1999, the Standing Committee on Law and Justice be designated as the Legislative Council committee to supervise the exercise of the functions of the Motor Accidents Authority and Motor Accidents Council under the Act.
2. That the terms of reference of the committee in relation to these functions be:
  - (a) to monitor and review the exercise by the authority and council of their functions,
  - (b) to report to the House, with such comments as it thinks fit, on any matter appertaining to the authority or council or connected with the exercise of their functions to which, in the opinion of the committee, the attention of the House should be directed,
  - (c) to examine each annual or other report of the authority and council and report to the House on any matter appearing in, or arising out of, any such report,
  - (d) to examine trends and changes in motor accidents compensation, and report to the House any changes that the committee thinks desirable to the functions and procedures of the authority or council, and
  - (e) to inquire into any question in connection with the committee's functions which is referred to it by the House, and report to the House on that question.
3. That the committee report to the House in relation to the exercise of its functions under this resolution at least once each year.
4. That nothing in this resolution authorises the committee to investigate a particular compensation claim under the Motor Accidents Compensation Act 1999.

## PETITION

### Unborn Child Protection

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

## BUSINESS OF THE HOUSE

### Routine of Business

*[During the giving of notices of motions.]*

**The PRESIDENT:** Order! As the former President said on many occasions, it is sometimes very difficult for the Chair to hear what is being said by members with the call. In order to assist the Chair's understanding of the proceedings I urge members, wherever possible, to make use of the microphones at the table.

## BUSINESS OF THE HOUSE

### Postponement of Business

**Business of the House Notice of Motion No. 1 postponed on motion by Ms Sylvia Hale, on behalf of Ms Lee Rhiannon.**

**Business of the House Notices of Motions Nos 2 and 3 postponed on motion by the Hon. Duncan Gay.**

**AUS HEALTH INTERNATIONAL****Personal Explanation**

**Ms SYLVIA HALE**, by leave: I wish to make a personal explanation. Following question time yesterday the Treasurer sought leave to make a personal explanation relating to a supplementary question I had asked about health services on Nauru. The Treasurer took exception to my use of the term "final solution" in relation to the immigration facility on Nauru and stated that I had been insensitive to the experience of the Jews, trade unionists, homosexuals, communists and others who were killed in Nazi concentration camps.

My use of the term "indefensible final solution" was a mistake. I had meant to use the term "Pacific solution", which I had previously used in my question and which the Treasurer used in his response. I withdraw the term "final solution" and apologise for my inadvertent use of the term. As I said, it was not my intention to use the term or to cause offence. The Treasurer went on to allege that I, and the Greens more generally, seek to belittle the importance of the Holocaust and suggested that I should visit the Holocaust museum. I inform the Treasurer that I have visited the site of the Dachau concentration camp in Munich and I assure him and the House that I do not, nor do the Greens, in any way belittle the suffering that took place in the Nazi concentration camps.

Finally, I would like it noted that I sought to withdraw my comment yesterday immediately after the Treasurer raised the issue but I was denied leave to do so by the Treasurer. I would have thought it common courtesy that, where a Minister has asked the member to withdraw a comment—

**The Hon. John Della Bosca**: Point of order: The honourable member sought leave yesterday to make a personal explanation.

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

**Ms SYLVIA HALE**: I would have thought it common courtesy that, where a Minister has asked a member to withdraw a comment, the member be allowed the opportunity to do so immediately.

**STANDING COMMITTEE ON SOCIAL ISSUES****Government Response to Report**

**The Hon. John Della Bosca** tabled the Government's response to report No. 39, entitled "Impact of the WorkChoices Legislation", dated 23 November 2006.

**Ordered to be printed.**

**The Hon. JOHN DELLA BOSCA** (Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance) [11.14 a.m.]: As members of this House would be aware, the Lemma Government referred an inquiry on WorkChoices to the Standing Committee on Social Issues of this Chamber in March last year. The committee examined the impacts of the Commonwealth's WorkChoices legislation on the ability of workers to genuinely bargain, rural communities, gender equity, balancing work and family responsibilities, injured workers, and employers. In November last year the committee released its final report, which confirmed our concerns: WorkChoices is bad for workers, bad for employers and bad for the economy.

The Committee, including members of the Government, the Opposition and the crossbench, examined the issues that the High Court of Australia could not. The committee received more than 50 submissions from an array of stakeholders, with 71 witnesses appearing before its public hearings and forums in metropolitan and regional areas. After examining the testimony and submissions the committee concluded that "rarely has a Committee heard such unanimity of criticism and such deep fear for the future". The Committee criticised the imposition of WorkChoices on the lives of families and businesses in New South Wales and stated that the WorkChoices takeover was:

... an unreasonable and unwarranted move by the Federal Liberal/National Coalition Government to encroach upon the jurisdiction of the states and to impose its own industrial ideology on workers hitherto outside the federal industrial relations system.

The committee noted "successive New South Wales governments had provided a fair and cooperative industrial relations system". The inquiry noted the red tape associated with WorkChoices and stated that "the degree of complexity, paperwork and bureaucracy built into the Federal industrial relations system by WorkChoices is surely unique in the developed world". The committee discussed the economic impacts of WorkChoices, including productivity growth, as promised by the Howard Government. However, the committee found it was "dubious" whether minimising labour costs in industries which already have lower wages is an effective means of maximising productivity. It stated:

Productivity is not a major factor when dealing with many unskilled workers. Productivity is generated when workers are really adding value to what they are doing. Accordingly most productivity gains tend to be generated in the middle and upper parts of the labour market.

The inquiry heard testimony and submissions regarding the interaction with the WorkChoices legislation and the Welfare to Work changes. The committee noted the comments of Dr John Buchanan from the Workplace Research Centre, who stated:

Welfare to Work is essentially about massively increasing the number of low-paid unskilled workers on the labour market to drive wages down. . . . WorkChoices will limit their capacity to organise any industrial tribunals to look after their standards. So the two working together will create a significant number of low-paid jobs for a large number of unemployed people which will keep the wages for low-skilled jobs down.

The committee noted the comments in the combined legal centres group submission, which argued that the combination of WorkChoices and Welfare to Work will drive more primary carers of children into greater poverty. It argued:

Not only does this bode ill from a child protection perspective, but given that the majority of sole parents are women, the disturbing conclusion that the Federal Government's legislative program contains an intentional gender bias seems irresistible.

The committee concluded, "WorkChoices is unjust and will have a detrimental impact on our future society and economy" and "will exploit the most vulnerable in our community leading to low pay work in a low productivity economy. It will exacerbate the skills shortage in Australia and lead to a reduction in workplace safety".

The New South Wales Government's response to the final report from the inquiry into the Commonwealth WorkChoices legislation has been tabled. This response addresses the nine key recommendations from the report. The Iemma Government supports the committee's recommendation that the Federal Government should completely repeal the WorkChoices legislation on the grounds it is damaging to workers, businesses, the economy and Australian society as a whole.

Our response supports the ongoing work of the New South Wales Office of Industrial Relations in providing information, training and support to disadvantaged groups and to workers and businesses in rural and regional New South Wales. This includes programs such as: ethnic radio and fact sheets published in community languages for people from culturally and linguistically diverse communities; the launch of the "Young People at Work" website for young people recently employed or looking for work; seminars and presentations by the Workplace Services Team for small business owners and operators; the Girls at Work tool, designed to assist young women in negotiation, conflict resolution and assertiveness skills; and electronic resources such as Check your Pay and Compare What's Fair to assist workers to check their wages and to compare the conditions of their Australian Workplace Agreement [AWA] with the relevant State award. We also agree that people with a disability should be among the list of workers considered to be in a disadvantaged bargaining position as defined by the Commonwealth under section 151 (2) of its Workplace Relations Act 1996.

Further, the Iemma Government supports, and has initiated, the development of a longitudinal study to track the wages and conditions of work in New South Wales to monitor the longer-term impacts of WorkChoices. The Government has commissioned the Workplace Research Centre to undertake state-based benchmark research to monitor and evaluate the impact of WorkChoices upon employees and businesses in the future. This study is known as the New South Wales Workplace Industrial Relations Survey. The Iemma Government, in partnership with the Queensland and Victorian governments, has also commissioned the Workplace Research Centre to undertake a study of enforceable rights in agreements and awards for key job categories pre- and post-WorkChoices. The Government does not believe the establishment of an independent statutory Office of the Workplace Advocate is necessary. Such a position is not necessary given workers and businesses in this State benefit from an independent umpire—the New South Wales Industrial Relations

Commission—and the Office of Industrial Relations carries out information activities and comprehensive enforcement campaigns through a strong inspectorate.

Some in the Opposition opposed this inquiry and considered it a waste of time. This shows just how out of touch the Opposition is with the plight of hard-working families and businesses. The Iemma Government has a direct interest in the welfare of the people of this State, which includes people's wages and working conditions. We have a direct interest in the welfare of employers in this State, and this includes the productivity and efficiency of businesses. That is why the Iemma Government launched this inquiry to examine and monitor the impacts of WorkChoices. Since the introduction of WorkChoices we have seen example after example of workers being exploited and damaged by these laws. We have had the Cowra Abattoir dispute, the Tristar Engineering dispute and the Spotlight Australian workplace agreements [AWAs] dispute, just to mention a few. This Government has repeatedly said that Australian workplace agreements will reduce workers' conditions and take-home pay. The initial statistics from the Office of the Employment Advocate prove us right. One hundred per cent of its sample of Australian workplace agreements removed at least one protected award condition; 16 per cent removed the lot. Although the Commonwealth claimed that we should not view these statistics in isolation, it conveniently stopped collecting them. Or so we are told.

Australian workplace agreements data leaked to the media last month revealed that 75 per cent cut shift work loadings, 68 per cent excluded penalty rates, and 52 per cent removed public holiday pay. Yet Federal Minister Joe Hockey continues to preach the value of Australian workplace agreements by claiming that they provide flexibility for workers. This hollow claim is not supported by Australian Bureau of Statistics data on working time arrangements released yesterday. The data showed only 38 per cent of employees were able to work extra hours in order to take time off. This is a decrease of 3 per cent since the last survey in 2003, which means that workers are less able to find the flexibility to fulfil their family commitments. Not only are workers being stripped of entitlements such as penalty rates for overtime, weekends and holidays, they are also being accorded less flexibility. It is flexibility one way, and that is downward for employees. Now Joe Hockey and the Prime Minister have decided to pay the ultimate lip-service to workers in this State, announcing that from 7 May this year all new Australian workplace agreements will need to meet a so-called fairness test.

The Howard Government introduced the Workplace Relations Amendment (A Stronger Safety Net) Bill into Parliament last night, and we are already starting to see just how much the WorkChoices patch-up job will cost. According to the explanatory memorandum, this so-called fairness test will cost Australia's taxpayers \$370 million over the next four years. More than \$100 million will be spent in 2007-08 alone on establishing and administering this so-called fairness test. This is an extraordinary cost to the taxpayers to make up for the mistakes of Howard and Hockey. In addition, the Employment Advocate, Peter McIlwain, has advised that hundreds of more bureaucrats will be required to administer this so-called fairness test, which wraps businesses up in more red tape. This is a cruel hoax being played out on New South Wales families. Despite the millions of dollars the Howard Government is committing to these changes, which makes WorkChoices even more costly and complex, WorkChoices still allows basic workplace rights and entitlements to be ripped away.

Even the Federal Minister for Employment and Workplace Relations, Joe Hockey, admitted this week that he could not guarantee workers would not be worse off as a result of the fairness test. The WorkChoices system still lacks an independent umpire that could provide inexpensive and fast workplace justice when disputes and disagreements arise. There remains no independent umpire to enforce a no disadvantage test. And it will not apply to the 300,000 Australians that are already working under an Australian workplace agreement.

**The Hon. Robyn Parker:** Many of them are very happy.

**The Hon. JOHN DELLA BOSCA:** She has to be kidding! I acknowledge the interjection of the Hon. Robyn Parker. It will make some very good direct mail in the Paterson electorate. The Iemma Government remains committed to doing all it can to protect New South Wales families from WorkChoices. That is why this Government has passed legislation to protect workers in this State from the damaging impacts of WorkChoices, including frontline public servants, injured workers and young workers. Last week the New South Wales Industrial Relations Commission handed down its no net detriment guidelines, which support the Industrial Relations (Child Employment) Act. This Act was developed by the Iemma Government to protect the wages and conditions of young people under 18 years of age. The commission determined that certain working conditions are essential to protecting a young person's wellbeing, including conditions provided in awards for pay allowances, late-night work and notice of rosters and shift changes. It found:

There can be no doubt on the evidence that children employed by some corporate employers in this State are presently being exploited in a most unconscionable way.

It also determined the exploitation had arisen:

... from a departure from State award conditions by the making of an agreement between the affected child and his/her employer under the WorkChoices legislation.

As a result of this legislation and its guidelines more than 150,000 young people in this State are now protected from the damaging effects of WorkChoices. Unlike the Federal Government's fairness test, this is genuine and proper protection. The new guidelines also protect the following young worker provisions: reasonable notice of rosters and changes to shift and working hours; limitations on working late at night, early in the morning or late transportation arrangements; entitlements to annual leave and other forms of leave; and occupational health and safety protections. WorkChoices is also bad for businesses and the economy. According to a study by Harmers Workplace Lawyers it is estimated that complying with WorkChoices costs small businesses across Australian about \$950 million when new record-keeping requirements began in March. Businesses and families are being hurt by growing job insecurity as a result of the scrapping of unfair dismissal laws under WorkChoices.

A new study by recruitment and human resources company Hallis between September and December last year found annual worker turnover rates were rising. According to the report the loss of productivity due to job insecurity cost the Australian economy \$18 billion last year. The Howard Government abused its Senate majority and forced the unfair WorkChoices system on the working families and businesses of this State. The committee of inquiry established by this Parliament has verified what we have long suspected: WorkChoices does not boost productivity or innovation. Instead it has resulted in disparity and inequity in wages and an increase in low-paid jobs and disadvantage. I call upon the Howard Government to heed the findings of this Committee report and repeal the WorkChoices legislation in its entirety.

**The Hon. MICHAEL GALLACHER** (Leader of the Opposition) [11.27 a.m.]: I will make a few short comments not only on the Minister's contribution but also the general direction of the Government in the past two months. I will also make a couple of observations. It is fair to say that any report by a parliament must be considered on the weight of argument and contributions of those involved in the process. I am not talking about the committee members, because, as we all know, everyone in this Chamber has a view on WorkChoices, and they are all on the record. It is not important for members of Parliament to be the main focus in this parliamentary inquiry process. The main focus should be witnesses, groups who come before the committee to give reports and evidence, and their side of the argument. Today, in a cursory way, the Government moved across dozens and dozens of people who gave evidence and made submissions, and who were welcomed as witnesses. But it is not until one starts to go through the witnesses that one realises how heavily skewed towards a certain outcome the process was from the very start.

Mark Bethwaite, head of Australian Business Limited [ABL], said, "This is an inquiry which has a predetermined outcome in mind." For that reason Australian Business Limited saw no reason to participate in the process. Close to 100 people made submissions to, and were witnesses before, the committee. But only four of them came from groups that could be classified as employer groups, and one of those, the Local Government Association, has been so heavily infiltrated by our friends on the other side of the Chamber that its views on WorkChoices could hardly be considered to be indicative of the wider employer community. Let us say from the very outset that the significance of the Government's suggested findings as a result of the inquiry are best encapsulated in the words of Mark Bethwaite, who said that it was a predetermined outcome right from the very start. It is extremely important to consider the report in that light. The MTA could hardly be considered to fit the Government's classic mould of beating up big business.

[Interruption]

Not the Hon. Ian West's MTA: I am talking about a legitimate organisation, the Motor Traders' Association, which represents small to medium size enterprises—the very sector that this Government tries on the one hand to court and on the other hand, in relation to employment policy, to stab, get rid of, never hear from again. The Motor Traders' Association expressed its opinion that the conduct of the inquiry was too soon to effectively gauge the impact of the Commonwealth WorkChoices legislation. That opinion and the opinion expressed by Mark Bethwaite have made this Government realise it is running out of time to help its mates in Canberra. The Government realised it had to produce this report as quickly as possible.

I would not be surprised if the final report had been drafted before the committee met on the first day. Because the committee knew who the witnesses would be and the diatribe of the various groups, including unions who would be welcomed with open arms—there were no surprises there—I would not be surprised if the outcome had been decided beforehand: It was just a matter of putting a date on the final report that had been

prepared before the committee met on the first day. Let us not forget that last year the New South Wales Minister for Industrial Relations scoured New South Wales in his search for an employer of choice to crucify for ripping off workers and found one in the seaside sleepy village of Manly on Sydney's north shore—Pink Salt.

Honourable members may recall that day after day in this House Minister Della Bosca got stuck into Pink Salt for ripping off workers by underpaying them. The Minister told this House how he would set the Industrial Relations Commission dogs onto Pink Salt and rip the owners to pieces. Pink Salt is no longer in business. The Minister proved his case. He got stuck into Pink Salt and Pink Salt was found to have done the wrong thing by underpaying its employees. But what is most revealing is the manner in which the Minister searched high and low to find an example to publicly tear to pieces like a rabid dog, which is exactly what he did to Pink Salt. But during the past couple of weeks we have heard about another example in New South Wales.

I love the way this Government says it is heading in the right direction but has more to do. WorkDirections Australia in New South Wales also has been identified as ripping off its franchised workers by underpaying them, but I have not heard the Minister say that the Industrial Relations Commission is going in and will make an example of that organisation to ensure it complies with industrial law and occupational health and safety standards. The Industrial Relations Commission is not going in, full stop. There is one rule for one group and another rule for the Government's mates.

I love it when I hear the Government talking about exploitation of the workers. But what about the exploitation of the people of New South Wales in the lead-up to the election campaign? The Coalition stood side by side with the Minister to ensure that all public servants in New South Wales remained within the domain of the New South Wales Parliament and the Industrial Relations Commission, but what happened? The Government spent millions spinning a lie across New South Wales that public servants would not be protected under the Coalition's industrial relations policy. When this Government complains about exploitation, it should look to itself and the manner in which it has manipulated the truth in this Parliament.

The Coalition stood beside the Minister to defend and protect New South Wales public servants because we believe we have a responsibility to look after them. The Coalition thought it was doing the right thing, and we did the right thing by standing by public servants while the Government completely manipulated the truth. The Government made an example of Cowra Abattoir Limited, but when it came to WorkDirections Australia the Government applied new directions for New South Wales that avoided causing the Federal Opposition to become unsettled in any way. This report is all about helping Rudd the Dud become the next Prime Minister of Australia. The New South Wales Government will use everything possible to do the right thing by its Labor mates.

It is interesting that Government members begin bleating when I mention public servants, because we all recall that in 2005 Minister Costa stated publicly that he wanted to get rid of 65,000 public servants. They were to disappear in a snap of his fingers. Minister Costa had also secretly drafted legislation to implement forced redundancies of public servants on the unattached list. Public servants and the public did not know about that, but with Cabinet approval, Minister Costa had legislation drafted to force redundancy upon public servants in New South Wales. When the Minister was quizzed about that prior to the recent State election, he said that all he was doing was putting current practice that applies to the unattached list into legislation. I do not know anything about public servants being asked to accept a 15 per cent pay-cut as common practice in New South Wales, and I do not think it is common practice to implement forced redundancies in New South Wales. However, that was what the legislation was all about, so why was this Government not honest with the people of New South Wales?

The Government should tell the people of New South Wales what is going on and what its proposals are. I have no doubt that the Government still has secret plans to force redundancies in New South Wales. The point I make is that the Government ought to be honest and let people know. In the recent State election campaign, this Government was not honest. This Government was untruthful about its intentions in relation to public servants in New South Wales. This Government perpetuates the myth that Labor is the protector of public servants in New South Wales while it seriously drafts secret legislation to get rid of them. I suspect that if the Government runs true to form, when the time is ripe it will move to implement that legislation.

As the Hon. Robyn Parker and the Hon. Charlie Lynn rightly assert in their dissenting statement of the report dated November 2006, the report is nothing more than a process for the Government to satisfy its mates in Canberra that all possible State Government resources are being directed to constructing a completely false

case and so that its friends in Canberra will be able to refer to the findings of a parliamentary inquiry. Again I make the point that from day one the inquiry not only was flawed but was only about achieving a desired outcome. Quite simply, there was no integrity in the process of the inquiry and there will be no integrity on the part of this Government in the future.

The Coalition has demonstrated that when it comes to being consistent in applying the laws of New South Wales, there is one rule for one sector and another rule for the Government's mates. When it comes to having the Industrial Relations Commission examine the conduct of one of this Government's own, the commission will not go anywhere near it. The Opposition maintains its dissent in relation to the inquiry, which was nothing more than a sham.

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979: DISALLOWANCE OF  
ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (DESIGNATED  
DEVELOPMENT) REGULATION 2007**

**Debate resumed from 29 May 2007.**

**Ms SYLVIA HALE** [11.38 a.m.]: Yesterday I pointed out that the regulation had been introduced for the purpose of overturning a court decision in favour of the Blue Mountains Community Group. I concluded my remarks on the note that the Hawkesbury-Nepean river system is already under pressure from more than 39 sewage treatment plants discharging into the river system and consequently posing a threat to the water supply of Sydney, the Blue Mountains and the Illawarra. While the specific Parklands proposal involves dispersion of the effluent across the property, its proximity to Popes Glen Creek and its potential to add to the river system's effluent load deserves, at the least, extensive scrutiny. The effect of the court's decision would be a requirement for an environmental impact statement. However, rather than implement the decision of the court, on 1 March this year the Government amended the former regulation applying to on-site sewage treatment plants across New South Wales to allow those plans to be approved without an environmental impact statement [EIS] being undertaken. In effect, the Minister overturned the decision of the court. The explanatory note to the regulation outlines:

The object of this Regulation is to amend the Environmental Planning and Assessment Regulation 2000:

- (a) to remove storage facilities for sewage or effluent and some small-scale sewerage systems or works (including those that reuse sewage or effluent) from the categories of development that are prescribed as the designated development, and
- (b) to make it clear that (apart from some sewerage systems or works) ancillary development (which would otherwise be considered to be designated development) is not designated development if it is ancillary to the development and is not proposed to be carried out independently of that other development.

The effect of the amendment that I seek to disallow is twofold: first, it drastically restricts the circumstances in which an environmental impact statement is required when a sewage treatment plant is being built. Prior to this amendment the regulation ensured that environmental impact statements were required for a range of sewage treatment works including sewerage systems or works that release or reuse more than 20 persons' equivalent capacity, or six kilolitres per day, of sewage, effluent or sludge, and that are located in or within 100 metres of an environmentally sensitive area; or in an area of high water table, highly permeable soils or acid sulfate, sodic or saline soils; or on land that slopes more than 6 degrees to the horizontal; or within the catchment of an estuary where the entrance to the sea is intermittently open, or within 500 metres of a residential zone.

Those definitions of the circumstances under which a sewage treatment plant should be considered as a designated development have been removed from the regulation, leaving a much narrower definition. The second effect of the amendment I seek to disallow is that, even when the circumstances fit within the new narrow definition, the requirement for an environmental impact statement is waived if the sewage treatment plant is ancillary to some other development and is not proposed to be carried out independently of that other development. I am sure that members of this House would not be surprised to hear that most sewage treatment plants are built to service some other development and are constructed at the same time as the rest of the development.

The practical effect of this new regulation on the Parklands case is that no specific environmental impact assessment of the sewage treatment plant is now required, despite the Federal Court of Appeal's unanimous decision that had the effect of requiring that such a statement be prepared. This amendment to the regulation extends beyond Parklands. It applies to any development involving a sewage treatment plant and has



the potential to remove the specific requirement for an environmental impact statement for most new sewage treatment plants. When considering whether this amendment to the regulation should be disallowed, it is worth considering some comments by Justice Tobias of the Court of Appeal in the Parklands case, and by Justice Pain of the Land and Environment Court in a similar matter. In the written decision in the Parklands case Justice Tobias remarked:

... sewage treatment systems or works, including septic tanks, are capable of having unacceptable environmental impacts as they have the potential for surface and ground water contamination, odour and health risks depending on their size and location.

Justice Tobias referred to the decision of Justice Pain in *Maxwell v Hornsby Council*, in which Justice Pain commented:

The EP&A Act's objectives emphasise the need for environmental protection, proper environmental management and development and increased opportunity for public involvement. When taking these matters into consideration along with the current wording of the EP&A Act and the 2000 Regulation, it would seem to be contrary to the intent of the legislation now in force to hold that an activity that the Parliament considered to have potential for environmental harm (i.e. the activities in Sch 3), should necessarily lose that character because it forms part of a greater development or is not the main purpose of the development in question. The whole basis behind designated development is to ensure that activities that will potentially have greater environmental impact are properly considered through a process of environmental impact assessment.

The decisions of Justices Tobias and Pain were made when the former regulation was in effect and do not refer to the amendment under consideration, but their observations point directly to the reason that I have moved to disallow the amendment to the regulation. The question of whether a sewage treatment plant is ancillary to some other development should be irrelevant. Sewage treatment plants have been specifically designed as designated development and therefore require an environmental impact statement for good reason. Developments requiring on-site sewage disposal are almost invariably located in sensitive environmental areas where sewerage infrastructure does not exist. Because they have the potential to contaminate groundwater and pose other health risks, it is essential that an environmental impact statement be prepared so that the off-site impacts can be assessed before development approval is given.

This amendment to the regulation turns that principle on its head. It has the effect of saying that so long as a sewage treatment plant is part of some other development it is apparently no longer a threat to our health or to the environment. That is a patently nonsensical proposition; it throws out the precautionary principle and replaces it with the "anything goes" principle. Given the importance of maintaining the quality of our rapidly diminishing sources of freshwater, that is an extremely irresponsible act by the Government. Most sewage treatment developments are in environmentally sensitive areas with significant potential to damage local watercourses and watertables, yet the Government has removed the requirement to specifically consider the environmental impact of such developments.

That action by the Minister has outraged the Blackheath community. It has reinforced cynicism about the political process, made a mockery of the legal process designed to preserve the balance between development and environmental protection, and demonstrated yet again the extent to which this Government will go out of its way to put the interests of developers ahead of the interests of local communities and the environment. Residential development is already putting enormous pressure on our natural resources, particularly our water supply. This House has a responsibility to ensure there is a proper scrutiny of developments that could threaten that water supply or public health.

It is irresponsible of the Government to let environmentally risky development proceed without proper scrutiny when such developments have potentially serious long-term health, social and economic consequences for the community. It is the proper role of this House to scrutinise such actions by a government and to disallow such regulations when they are clearly not in the public interest. I contend that this regulation is a potential threat to public health and the environment, and for those reasons it should be disallowed. I commend the motion to the House.

**Mr IAN COHEN** [11.48 a.m.]: I support the motion moved by Ms Sylvia Hale to disallow the amendment to the regulation. Many members of this House would be well acquainted with the Blackheath area in the Blue Mountains, where there has been development along the ridges and in the high lands above the natural fall of the land. That land falls into some wonderful wilderness areas and spectacular recreational scenery, particularly in the Grose Valley. The proposal for some 84 dwellings, known as Parklands, is on land on the upslope from Popes Glen Creek, which flows into the Grose River and the national parks.

Developments have a massive impact on surrounding areas. In this House we have had a number of debates on resolving sewerage issues in the Blue Mountains and their impact on the national parks downstream. We have debated the potential significant health impacts of sewerage development.

Among other issues, this will have a significant health impact on people using those national park areas. Rather than paying appropriate attention to this critical issue, the Government quite abruptly moved away from court decisions to provide an element of protection to the environment and to recreational users of that environment, and allowed this development to go ahead, which flies in the face of those court decisions. Council rejected a previous development application for the project because the site is not serviced by the local sewerage system. In fact, the Blackheath sewage treatment plant would not allow for the extra capacity that is needed.

The proponent then decided to use an on-site sewerage system, which is a matter of some concern. I am not concerned about this system because it is on site as I have had some experience with on-site systems. These systems have done well and can result in a great saving of water for the general area. They can also utilise effluent if it is appropriately and productively cleaned up. This system is a matter of concern because it has not been tried on a scale of that size in such a sensitive area. There are too many unanswered questions about the ability of an on-site system to cope adequately with sewage from a high number of dwellings, given the sensitive area and the climate of Blackheath, which includes heavy rain, and which has an average annual rainfall of 1,050 millimetres.

These questions must be answered properly with an environmental impact statement [EIS]—an issue to which this disallowance motion reverts. The sewage treatment plant [STP] would see the dispersal of treated effluent on the ground across the property. That sort of dispersal is a fairly primitive way of going about it. A lot more could be done with the effluent if it were appropriately cleaned up and reused on the property, and not dispersed only in that way. An environmental impact statement is necessary to examine issues such as the quality and quantity of effluent, the sloping site, the low levels of evaporation, particularly in winter, and the close proximity of the site to an endangered Blue Mountains swamp and Popes Glen Creek.

Importantly, a groundwater survey has not been conducted. That is crucial, as a spring rises along the western boundary of the property and an aquifer comes to the surface on the northern side of the property, feeding the swamp outside the boundary. Annual testing in Popes Glen Creek shows among the lowest levels of phosphorous in Blue Mountains streams. Effluent has the potential to contaminate the creek, especially after storms or during periods when the ground cannot absorb the effluent. Nitrogen leaching from the site would also be a problem, causing rampant weed growth in the riparian zone.

The proposed sewage treatment plant would also use chlorine to remove viruses and pathogens from the effluent, with the danger that any overflow will result in chlorine reaching the macro-invertebrates, frogs and fish in the creek, with deadly results. The resident action group Residents Against Improper Development, as well as the local community generally, have been rightly outraged by the lack of consultation over a development of such size and impact. Other than notifying residents immediately adjacent to the site and along Govetts Leap Road and a small notice in the council section of the gazette, no publicity, media release, public meeting, or site inspections were offered to the community.

In November last year the New South Wales Court of Appeal ruled unanimously that on-site sewage treatment plants that are ancillary to another purpose, such as the development in question, are designated development under schedule 3 of the Environmental Planning and Assessment Amendment (Designated Development) Regulation 2007 and that, therefore, they require an environmental impact statement. There were good reasons for that. Areas that are not serviced by sewerage infrastructure are more likely to be in remote and sensitive areas, thereby being more susceptible to impact from on-site sewage treatment.

The Government's gazettal of this amendment to the regulation on 1 March allows such on-site sewage treatment plants to be approved without an environmental impact statement being conducted, except in very narrow circumstances. This shows a flagrant disdain for the court's decision. It will have ramifications across the State, not just in the Blackheath development in particular, but across New South Wales. We are living at a time when water scarcity and water quality are prominent issues. It is astonishing that the Government would move to remove scrutiny and environmental impact assessment from sewage treatment plants that have the potential to detrimentally affect water quality through run-off into streams and rivers.

I strongly support the disallowance motion by Ms Sylvia Hale. It would be wise for the Government and, in particular, the current Minister for the Environment, the member for the Blue Mountains, to revisit this issue. The Minister should not get carried away with certain elements in the Government, such as the Minister for Planning, who are keen to override court decisions. Once this development proceeds it will have significant implications for this sensitive environment and it will impact on the health of many people, particularly recreational users of national parks in New South Wales. The Government must not set such a precedent and it must take a better and more balanced approach to developing environmentally sensitive areas.

**Reverend the Hon. FRED NILE** [11.55 a.m.]: A motion to disallow a regulation is viewed by all honourable members as important. Obviously the Government had clear objectives when introducing this regulation, so a motion to disallow it should be considered carefully. The Greens highlighted only one aspect of this regulation, which covers a number of important areas. The regulation makes three changes to schedule 3 in relation to sewer mining, other sewerage system works, and ancillary development. The Greens focused on only one aspect of the regulation. The regulation seeks to promote environmental policies concerning water.

Sewer mining is a type of water recycling that involves the removal of effluent from a sewer system for treatment and use, and it returns the remaining waste to the sewerage system. The regulation changes have been made to implement actions identified in the Government's metropolitan water plan to encourage water recycling in industry. By simplifying the assessment process and reducing red tape, private industry, commerce and agricultural ventures may be encouraged to adopt such water recycling initiatives. I thought all honourable members, and the Greens in particular, would support those water initiatives, as they profess an interest in problems relating to water shortages.

I do not know whether the Greens fully understand the regulation that they are seeking to disallow. The regulation also amends clause 29 of schedule 3 to remove from the schedule minor sewage treatment works and sewage storage systems. The changes to the regulation for sewerage systems have been possible due to significant progress in the standard of technology and the environmental performance of sewage treatment and containment facilities in recent years, including the establishment of industry guidelines and the introduction of strict performance criteria for sewage storage and treatment facilities—an important aspect of this regulation.

The regulation deals also with ancillary development. A new provision in the regulation confirms a long-held practice that development that is ancillary and not capable of an independent use should not trigger the designated development requirements of the Environmental Planning and Assessment Act 1979. As we have heard, the Land and Environment Court followed this practice until a recent Court of Appeal decision which established that even if particular development is ancillary to some other development, the ancillary development could trigger the designated development requirements of the Act and an environmental impact statement [EIS] would then be required. This was not the intention of the law or of schedule 3.

Clause 37A of schedule 3 now clearly exempts ancillary development that is not capable of independent use from the provisions of that schedule. There are two ways in which to assess these provisions. There is an exception for sewerage systems that have an intended processing capacity of more than 2,500 persons equivalent capacity, or 750 kilolitres per day. That means if a sewerage system with that intended capacity or greater is ancillary development and not capable of an independent use, it will still require an environmental impact statement. One gains the impression from the Greens that, if this regulation were not disallowed, it would remove all requirements for an environmental impact statement. That is a misrepresentation of the facts.

However, if a development application proposes the construction of seniors living accommodation to house 60 people, and the site is not sewered, a sewerage system that has an intended capacity of more than 20 persons is also required. If the sewerage system were located within 250 metres of a dwelling not associated with the development, it would normally need an environmental impact statement. However, as the primary purpose of the development is for the construction and use of seniors living accommodation, the sewerage system is ancillary and not intended for independent use. The proposed sewerage system is therefore not designated development. Clause 37A makes it clear that an environmental impact statement would not be required in that particular limited situation. However, if a subdivision development application proposes to subdivide land into 1,000 lots and construct a sewerage system to service that subdivision, an environmental impact statement will be required for the development application.

**Pursuant to sessional orders business interrupted and set down as an order of the day for a later time.**

## QUESTIONS WITHOUT NOTICE

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### LANE COVE TUNNEL SPEED LIMIT SIGNAGE AND INFRINGEMENT FINES

**The Hon. DUNCAN GAY:** My question is directed to the Minister for Roads. How long will the review take of the nearly 14,000 infringement notices handed out to Lane Cove Tunnel drivers? What exactly

will be the terms of that review and what will be reviewed? What guarantees can the Minister give to drivers, especially those fined for travelling between 40 kilometres per hour and 80 kilometres per hour? Why did it take the Minister so long to adopt a sensible approach and freeze the fines? What made the Minister change his mind from question time yesterday, when we asked him to show some compassion?

**The Hon. ERIC ROOZENDAAL:** As always, the Deputy Leader of the Opposition is two plays behind what is happening in New South Wales politics. If he had been a little more alert he would know that I just held a press conference at which I announced that I received information last night in relation to the number of infringements issued in the Lane Cove Tunnel—which, as I understand, totalled 13,500 as of 17 May. Some 44 per cent of those fines were issued to people for exceeding the 40 kilometres an hour speed limit. It concerned me strongly that such a large number of people had been booked for exceeding the speed limit. We conducted substantial research this morning and talked with the Roads and Traffic Authority [RTA]. We compared the results of what is happening in the Lane Cove Tunnel in terms of infringement notices with what happens in other tunnels now and historically.

It appears that the Lane Cove Tunnel is generating about 30 per cent of infringement notices recorded as having been issued in the tunnels around the Sydney motorway system. There is clearly an anomaly, and the situation must be examined closely. I have received no evidence or advice that there is any fault with the technology involved in the Lane Cove Tunnel cameras. However, there appear to be some issues relating to communicating to drivers the appropriate safe speed limit at which to travel. Let me say this about speed cameras—

**The Hon. Greg Pearce:** Genius! Sheer genius!

**The Hon. ERIC ROOZENDAAL:** The Hon. Greg Pearce jokes about speeding and cameras; that is typical of him. Speeding is the number one cause of fatalities and injuries on New South Wales roads. What happened in the Burnley Tunnel in Melbourne is a very sobering indicator of why we must lower speeds and put cameras in tunnels. Travelling at high speeds in tunnels can cause fatalities, as happened in the Burnley Tunnel. I have been carefully following public concern about this issue. I take that concern seriously. It is important that the public maintain confidence in our speed camera system, which is in place for reasons of road safety, not revenue raising. I would prefer to see every single speed camera in this State earning no revenue whatsoever and people adhering to the speed limit.

On 21 April the Roads and Traffic Authority erected additional portable variable message signs at the entrances to the Lane Cove Tunnel to remind drivers that speed cameras were in the tunnel. This was done in response to advice that a large number of people were being booked in the tunnel. In light of the information I received, I have issued the following instructions.

*[Interruption]*

Opposition members should listen to this. I have advised that the processing of infringements issued to motorists driving at the time that the speed limit was signposted as 40 kilometres per hour be suspended. I have advised that fines be waived and demerit points returned for motorists travelling less than 80 kilometres per hour at the time that the tunnel was signposted with the 40 kilometres per hour limit. Motorists complying with an 80 kilometres per hour limit—those who believed they were travelling at the appropriate speed—will be given the benefit of the doubt. I have instructed the Roads and Traffic Authority to report back to me on a mechanism for doing this. I am certainly prepared to legislate if necessary to achieve the appropriate outcome.

Notwithstanding the investigation being conducted by the Roads and Traffic Authority and the State Debt Recovery Office into the reasons for the very high number of infringements issued, I have asked the Roads and Traffic Authority to make sure that extra signage is in place as soon as possible. Connector Motorways will also re-examine its signs and warnings. There will be no freeze on infringements relating to anybody exceeding the 80 kilometres per hour speed limit.

## WORLDSKILLS AUSTRALIA

**The Hon. LYNDIA VOLTZ:** My question is addressed to the Minister for Education and Training. Will the Minister inform the House about the achievements of TAFE students in the WorldSkills Australia competition?

**The Hon. JOHN DELLA BOSCA:** I thank the Hon. Lynda Voltz for her question and acknowledge her ongoing interest in technical and further education. TAFE NSW provides excellent, high-quality training to its students. This is demonstrated by the outstanding results achieved by TAFE NSW students who compete at the regional, state, national and international levels of the WorldSkills competitions. WorldSkills Australia is an independent, not-for-profit organisation that conducts trade and skill competitions to challenge young people to achieve skill excellence. At the national competition last year in Melbourne, New South Wales blitzed the field, topping the medal tally and proving that TAFE NSW leads the nation in the provision of vocational education.

The 157 outstanding New South Wales students competed against more than 500 of Australia's best. They brought home 59 medals in total, 25 of them gold and most of them in important skills shortage industries such as carpentry, electrical, information technology, cookery, automotive and the engineering and construction trades. Many of these gold-medal winners now have the chance to represent Australia in Japan later this year in the International WorldSkills Competition. Our Australian WorldSkills team comprises the best apprentices from throughout the country. Eleven of the 28 apprentices in the Australian team are from TAFE NSW—more than any other State.

The Australian WorldSkills team—which is known as the Skillaroos—will head to Shizuoka, Japan from 14 to 21 November 2007 to compete against other teams from across the globe. To prepare our Australian competitors a practice event was held against New Zealand over four days last week at the Newcastle Exhibition Centre. The 11 New South Wales competitors achieved outstanding results. TAFE NSW and WorldSkills Australia are proud of their strong relationship with industry. The competition was sponsored by many national manufacturers, who provided car bodies, bricks, welding machines and beauty products, ensuring that competitors had the use of equipment and products similar to those that will be provided at the international competition in Japan. Another key element of the event was the Taste of TAFE Try a Trade Program. Over the four days more than 5,000 visitors had hands-on experience with the type of training that TAFE NSW offers, and spoke with TAFE experts. This is a great way to get our young people involved in trades and trade training.

The Iemma Government has a range of initiatives designed to increase the numbers of people undertaking vocational education, and to meet the challenges posed by skill shortages. These include helping people to get a head start in a trade with a TAFE NSW pre-apprenticeship course, and encouraging others to join the 50 per cent of year 11 and 12 students who are now undertaking vocational education and training courses as part of their Higher School Certificate curriculum. We are also building 25 trade schools across New South Wales at existing high schools and TAFEs to ensure that students reach their full potential. New South Wales government agencies and utilities will be taking on 1,600 additional apprentices over the next four years. We will spend an extra \$3.5 million to enable group training companies to take on 1,250 new apprentices on behalf of small businesses.

Under our Learn or Earn policy we will spend \$67 million to create more than 12,580 training places over the next four years, and our learning guarantee will provide an extra 5,850 TAFE places in skills shortage areas for young people up to the age of 18 who did not complete year 12 and who do not have a job. I commend our WorldSkills team for their talent and expertise in their chosen trades. I thank all those involved in WorldSkills Australia for their efforts in promoting the trades and I wish the Skillaroos every success in international competition in Japan.

## OCCUPATIONAL HEALTH AND SAFETY ACT REVIEW

**The Hon. MICHAEL GALLACHER:** My question is directed to the Minister for Education and Training, and Minister for Industrial Relations. When can the public and employers throughout New South Wales expect to see the report of the inquiry into the New South Wales occupational health and safety legislation headed by the Hon. Paul Stein—an inquiry that was due to report to the Minister by 30 April? Given that New South Wales has the tightest occupational health and safety laws in the country, what can employers expect to be the result of this inquiry and when will it be released publicly?

**The Hon. JOHN DELLA BOSCA:** The Hon. Paul Stein did in fact present to me his very good report prior to 30 April. The report is subject to consideration within the Government by Cabinet and obviously the Government's position and appropriate legislative arrangements and any other discussions and consultations will take place in the immediate future. I am a bit confused by the use of the term by the Leader of the Opposition that we have the "tightest" occupational health and safety laws in the country. When my grandmother used the expression "He got himself a bit tight", I think she meant that he was intoxicated so I am not sure what the "tightest" occupational health and safety laws in New South Wales might mean. I think the Leader of the

Opposition meant to say that we have the best occupational health and safety laws in Australia and indeed in the world.

**The Hon. Michael Gallacher:** Point of order. I do not want to get into a debate about what I did and did not say. The Minister is now debating the question. I asked him if it was the tightest legislation and I expect him to answer the question in that context.

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

**The Hon. JOHN DELLA BOSCA:** Trying to understand the terminology used by the Leader of the Opposition in his question, and thinking out aloud about what it means, does in fact constitute part of the answer. When he said we have the tightest laws I think he meant we have the most effective laws. They are effective, safe workplaces in which we are getting the best occupational health and safety results in Australia and among the best in the world. Indeed, the New South Wales occupational health and safety framework is amongst those envied by employees and employers right across the world and is one of those aspired to by developed nations in the world.

Our system provides, as the honourable member knows, quite strong support through codes and voluntary arrangements entered into by employer organisations and employees. It involves a lot of consultation, a high productivity based framework for occupational health and safety, which actually encourages good business practice, good management, consultation and importantly provides serious incentives. Sometimes, where necessary for unscrupulous people and because of the nature of industry, our system provides appropriate penalties for serious breaches. But what the honourable member has not communicated in his terminology of "tightest" is the important issue of effectiveness. Many Australians who happen to be residents of New South Wales are now returning home at night to their families—

**The Hon. Duncan Gay:** Point of order: I have never seen a clearer case of a Minister debating rather than answering a question. I request that you consider bringing him back to order.

**The PRESIDENT:** Order! The Minister's answer must be relevant, and he should not debate the question.

**The Hon. JOHN DELLA BOSCA:** In conclusion, the really important aspect about the tightness of the occupational health and safety framework is that it ensures that a very large number of people—fathers, mothers, sons and daughters, ordinary Australians living in New South Wales—return safely home after work every day. I strongly support that very important and fundamental right as part of a decent society. In relation to the Stein review or any subsequent reviews of the legislation, we will simply aim to improve on that framework and will not go backwards. We will not retreat on our occupational health and safety framework, which has delivered the best safety outcomes in Australia and is among the best in the world.

#### **DR PATRICK POWER AND MS ROSEANNE CATT PROSECUTION**

**Ms SYLVIA HALE:** My question is addressed to the Attorney General. Considering that the former Deputy Senior Crown Prosecutor, Patrick Power, was the prosecutor in the Roseanne Catt case and that the inquiry into the Roseanne Catt case found that two witnesses committed perjury, will the Attorney investigate who made the decision not to prosecute the two witnesses for perjury and why that decision was made?

**The Hon. JOHN HATZISTERGOS:** I will seek advice in relation to this matter from the Crown Advocate. I am not in a position at the moment to respond to the allegations.

#### **REGIONAL FOOD TOUR 2007**

**The Hon. IAN WEST:** How is the Government helping regional food producers to get their product into the Sydney market?

*[Interruption]*

**The Hon. TONY KELLY:** The Opposition is trying to lay claim to this great incentive. New South Wales produces some of the world's finest and most delicious food, indeed its quality and variety is nationally and internationally recognised.

**The PRESIDENT:** Order! It would be nice if, occasionally, I could actually hear an answer. I do not expect members to be totally quiet but I do expect them not to shout at one another across the table.

**The Hon. TONY KELLY:** The Government recognises the significant contribution the food industry makes to our State's economy and we support the industry through a wide range of programs, from setting up a business to trade and export opportunities. One such program featured in a comprehensive article in today's *Daily Telegraph*, is the Government's New South Wales Regional Food Tour. Last week I had the pleasure of leading the third regional food tour to the Hunter and Orana regions.

[*Interruption*]

We went very close to the Treasurer's home. The tour is all about showcasing regional produce and boosting sales of regional fine food. Hosted by the Department of State and Regional Development, the tour took 17 Sydney-based food buyers to Pokolbin and then Dubbo last week to meet face-to-face with more than 50 regional producers to hear stories behind the produce and to sample first hand their fantastic array of produce. In addition to business meetings, buyers and producers were given the opportunity to network with each other at the regional produce showcase dinners. The dinners showcased all of the producers' fine foods and provided buyers with an opportunity to sample the great food that comes from our Hunter and Orana regions.

In the Hunter, six chefs from the very good restaurants at Pokolbin, not far from the Treasurer's home, donated their time to present a different course at dinner that night. During the tour, buyers were very impressed by the range of produce, some immediately placing orders, and we expect more good results in the coming months. Both the Hunter and Orana regions have a diverse range of fresh and gourmet produce and value-added products. Some of the produce on show included snails, saltbush lamb, sourdough bread, commercial barramundi and silver perch, hand-made cheese, chocolate, and tapenade and pesto. The production of saltbush lamb, for example, has created six jobs in Narromine alone.

I was very impressed by the enthusiasm of the buyers and producers on the tour as buyers sampled the fine produce of the Hunter and Orana region. Preliminary feedback from some of the buyers and producers indicates that the tour has again been a great success. One buyer said, "Hearing the stories behind the produce was an aspect of the tour which will inform our future buying decisions, and I expect we will be cross-promoting those participants whose produce we purchase." Another buyer said, "I found the entire tour a very worthwhile exercise meeting with the growers and manufacturers and understanding some of their difficulties. I am very hopeful that there will be opportunities for our company to work with these producers in the future." This tour follows on from the success of last year's Regional Food Tour to the Northern Rivers and mid North Coast, which generated sales of more than \$300,000, and \$250,000 in the previous year. [*Time expired.*]

#### POST-NATAL DEPRESSION HOSPITAL ACCOMMODATION

**Reverend the Hon. Dr GORDON MOYES:** I ask the Attorney General, and Minister for Justice, representing the Minister for Health, the following question without notice. Is the Minister aware of statistics indicating that approximately 16 per cent of women who give birth experience post-natal depression? Can the Minister confirm that currently no public hospital in New South Wales allows mothers with post-natal depression to be hospitalised with their babies? Is the Minister aware of calls for the New South Wales Government to provide more public services for women suffering post-natal depression, especially for admission to hospital of mothers with their babies? What measures will the Government be taking to ensure that mothers in New South Wales suffering from post-natal depression, and their babies, are sufficiently accommodated in New South Wales hospitals?

**The Hon. JOHN HATZISTERGOS:** I will take the question on notice, obtain an answer and advise the House in due course.

#### TAX HAVEN BASED COMPANIES GOVERNMENT CONTACT GUIDELINES

**The Hon. GREG PEARCE:** I direct my question to the Treasurer, Minister for Infrastructure, and Minister for the Hunter. Are there any guidelines, rules or practices for Ministers and government agencies in dealing with companies based in tax havens? What are they? Does he have any role in administering any such rules, guidelines or practices? And has he dealt with or authorised any government dealings with a company based in a tax haven?

**The Hon. Tony Kelly:** Surely it is a Federal Government matter.

**The Hon. MICHAEL COSTA:** As honourable members on my side know, the Federal Government is responsible—

**The Hon. Michael Gallacher:** Name them!

**The Hon. MICHAEL COSTA:** All of them!

**The Hon. Michael Gallacher:** You are misleading the House now!

**The Hon. MICHAEL COSTA:** In the State election the Coalition campaign that focused on me guaranteed all Government members were re-elected and ensured the popularity of the Labor Party. The honourable member ought to know that the question would be much better directed to Peter Costello as the Federal Minister responsible. I would expect all state-owned corporations to comply with Australian taxation law.

### GREENHOUSE GAS EMISSIONS

**The Hon. KAYEE GRIFFIN:** My question is addressed to the Minister for Energy. Could the Minister update the House on developments regarding greenhouse gas emissions that took place at last Friday's Ministerial Council meeting on Energy?

**The Hon. IAN MACDONALD:** The Ministerial Council on Energy took a strong stand on this very issue at its meeting in Melbourne last Friday—a stand unfortunately not backed by the crumbling Coalition Government in Canberra. That day we saw where the leadership on climate change was coming: from the Labor states and territories. On Friday, New South Wales managed to push through a resolution backing a National Emissions Trading Scheme despite opposition from the Federal Government. The scheme was seconded by Tasmania and was backed by all states and territories.

I moved the motion for several reasons, including the fact that the absence of a National Emissions Trading Scheme is putting at risk a continuing reliable electricity supply for the community. We need to address the uncertainty surrounding greenhouse policy; it is as simple as that. The business community has sent a clear signal that it will not invest in the energy sector without some degree of certainty over greenhouse policy. And the only way that certainty can be created is through a firm degree of Federal leadership. Unfortunately the Commonwealth's refusal to act signals a failure on its behalf to show a commitment to tackling the issue of climate change. This seems to be clear to the states and territories, but not the Commonwealth, or the New South Wales Opposition, both of which appear paralysed on this vital issue. The motion put to the Ministerial Council last Friday was clear. It called for:

The Federal Government to urgently provide industry with the certainty it requires by implementing a National Emissions Trading Scheme, based on the work already conducted by the National Emissions Trading Taskforce.

I must say I am disappointed at the lack of Federal support, but again New South Wales led the way, and the Labor states and territories were right behind us. When the Premier recently announced the appointment of Professor Anthony Owen to advise New South Wales on its future base load electricity needs, one of the terms of reference given to him clearly stipulated the need to examine the conditions required for further investment in the energy sector. This is one of those occasions where the interests of industry and the environment coincide.

Here in New South Wales we are looking ahead. We are seeking advice on how to ensure that investment in generation capacity addresses greenhouse gas emissions while protecting the state's fiscal position. Look at clauses 1, 2 and 3. New South Wales is facing reality. We are making important changes. The sticking point is the Prime Minister. Hopefully, he will make some announcement shortly. Even Peter Costello is a reluctant convert. On 13 November 2006 he was reported in the *Sydney Morning Herald* as saying:

If the world starts moving towards a carbon trading system we can't be left out of that.

New South Wales recognises that Australia needs to position itself to compete in a carbon-constrained world to give investors certainty with their investments. We have done the hard yards. In August 2006 the states released a discussion paper called "Possible Design of a National Greenhouse Gas Emissions Trading Scheme". The discussion paper showed that a carefully designed emissions trading scheme can help Australia enhance its



competitiveness by minimising the costs of reducing emissions. Earlier this year the states concluded that we would go ahead and adopt the National Emissions Trading Scheme by 2010 if the Commonwealth Government fails to give a similar commitment.

Our State economy is ready for a national or global emissions trading scheme because of action we took years ago as part of our long-term comprehensive strategy to reduce greenhouse gas emissions. In 2005 we were the first Australian jurisdiction to commit to achieving year 2000 greenhouse gas levels by 2025 and a 60 per cent cut by 2050. The New South Wales Treasurer personally supported that as well. In 2003 New South Wales established one of the world's first carbon trading schemes—Greenhouse Gas Reduction Scheme—predating the European Union scheme. In late 2006 the New South Wales Government extended GGAS to 2021 and beyond, or until a national emissions trading scheme is implemented. It would however be remiss of me not to mention the Federal Government's criminal inaction on the Kyoto Protocol. The Kyoto Protocol is the cornice piece of global cooperation to prevent climate change and sets Australia's target at not greater than 108 per cent of Australia's 1990 emissions on average between 2008-12. [*Time expired.*]

### THE ROCK CENTRAL SCHOOL DEMOUNTABLE CLASSROOMS

**Dr JOHN KAYE:** My question is addressed to the Minister for Education and Training and refers to the decision of the Department of Education and Training to remove a much-needed demountable classroom from The Rock Central School to replace classrooms damaged by fire at the Young Public School. Is it true that 100 demountables are still held in storage at Goulburn for such emergencies, as was announced by the Premier in August 2006? If not, how many demountables are in the field behind Goulburn jail? Why were these demountables not used to supply much-needed emergency classrooms at Young Public School, rather than taking away the much-needed demountable at The Rock Central School? Does the Minister support the comments of Regional Director, Riverina, Colin Parker, in yesterday's Wagga Wagga *Daily Advertiser* that the Goulburn demountables are too small to be used for Young Public School classes? If so, what is the use of those demountables, and why is the department spending money to keep them in Goulburn?

**The Hon. JOHN DELLA BOSCA:** I thank the honourable member for his interest in education. The honourable member referred to a fire at the Young Public School on 11 May 2007 that destroyed three classrooms and devastated the local community. As we know from previous examples, damage or destruction by fire of a major public asset like a local school causes great distress in the local community. The Young Public School incident left two kindergarten classes and the high support needs special education class without a classroom. In response to this situation the Department of Education and Training decided to remove a surplus demountable classroom from The Rock Central School and relocate it for the use of Young Public School. The department advised The Rock Central School in 2003 that it had classrooms that were surplus to its enrolment entitlements. The Rock Central School currently has five classrooms above its enrolment quota entitlement and has sufficient permanent classrooms to accommodate all of its students.

Schools such as The Rock Central School are able to retain classrooms that are surplus to enrolment quota based on the understanding that the classrooms will be moved at short notice if a local emergency need arises, such as a fire at another school in the region. The principal at The Rock Central School understands that the learning needs of students can be met with one less classroom. Young Public School has a greater need for the demountable building at this time, to accommodate its students who have no classroom at all.

Demountable classrooms are being removed from three schools in the region to provide classrooms at Young Public School, and that has happened without protest. Demountables exist to help the department manage sudden changes, changes over time and enrolments in various schools. Demountable and modular classrooms are exactly what are required in this type of emergency.

[*Interruption*]

If the Hon. Catherine Cusack had listened to my answer, she would have heard me say that we have spare capacity at The Rock Central School and at two other schools in the region. We are allocating that surplus capacity to the Young Public School, which needs it. In response to the other part of Dr John Kaye's question, I am not aware of the statements made by Mr Parker on behalf of the Department of Education and Training and I have not familiarised myself with this morning's reports in the Wagga Wagga *Daily Advertiser*, but I will. I will examine those matters and advise him on them as soon as practicable.

I am not in a position to answer his question about demountables at Goulburn. I will find out the status of those demountables and advise him as soon as practicable. However, as the Attorney General pointed out by

way of injection, a large number of demountables at Cessnock are currently under refit and, for the most part, would not meet the department's occupational health and safety, environmental or general classroom standards. For that reason they would not be used in an emergency. We are using surplus capacity from other schools to ensure that a school that has been deprived is provided with proper facilities.

### JOHN LEWTHWAITE PAROLE

**The Hon. JOHN AJAKA:** My question without notice is directed to the Attorney General, and Minister for Justice. Will the Minister inform the House why he supports his Commissioner of Corrective Services, Ron Woodham, providing hospitality to a paedophile child killer and his partner, and then removing the paroled child killer's transmitter, a transmitter that would alert police if he entered schools and playgrounds? Will the Minister now admit that his Government's negligence is jeopardising the safety and security of our community, especially children?

**The Hon. JOHN HATZISTERGOS:** The Independent State Parole Authority decided to grant parole to Mr Lewthwaite on 13 April 2000. Mr Lewthwaite is subject to a range of parole conditions imposed by the State Parole Authority. In addition, he is required to register on the Child Protection Register and comply with the obligations of being on the register, such as updating police about his residential address. The Government introduced lifetime supervision for offenders, such as Mr Lewthwaite, who were given a life sentence before the meaning of "life sentence" was changed to mean "for the term of the offender's natural life". Pursuant to section 128B (2) (b) of the Crimes (Administration of Sentences) Act 1999 the Commissioner of Corrective Services has the power to determine the level of supervision for lifetime parolees and has imposed additional obligations upon Mr Lewthwaite in relation to that supervision.

As Mr Lewthwaite is on lifetime supervision, he must comply with any supervision conditions determined by the commissioner. The commissioner has determined that monitoring of Mr Lewthwaite's two electronic devices is necessary. It would be a breach of parole for him to remove, interfere or otherwise tamper with the electronic monitoring equipment. On 9 May 2007 Mr Lewthwaite lodged an appeal in the New South Wales Supreme Court against the conditions imposed upon him by the commissioner. On Friday 25 May the commissioner conducted a risk assessment of Mr Lewthwaite's parole conditions and decided to continue with electronic monitoring, however, he decided to remove satellite tracking. Mr Lewthwaite will be required to wear an electronic anklet, which will trigger an alarm if he makes an unauthorised movement.

In addition, the commissioner appointed the department's Special Visitation Group to monitor Mr Lewthwaite. The role and function of this group is to make unannounced, random checks on inmates, among them Mr Lewthwaite. In relation to other matters to which the honourable has referred, I reiterate what I suggested at a press conference yesterday: the matter is currently before the Supreme Court and I will not make any further comment in relation to it.

### ROAD SAFETY

**The Hon. EDDIE OBEID:** My question without notice is addressed to the Minister for Roads. Will he update the House on the latest government initiative to improve road safety?

**The Hon. ERIC ROOZENDAAL:** I commend the member for his interest in this important matter. On Monday this week I announced the establishment of the New South Wales Centre for Road Safety. A key priority of the Iemma Government's State Plan is safer roads. This centre the next step in delivering on that commitment. It is being set up as part of a restructure of the Roads and Traffic Authority's [RTA] road safety group, and will focus on implementing the Iemma Government's State Plan priorities of making our roads safer through improved driver behaviour. The centre will have four divisions—vehicles, technology, road environment and behaviour. This is about investigating emerging technology, driving improvements at a national level and changing community perceptions about road safety.

Road crashes cost the community approximately \$3.6 billion each year in insurance claims, and ongoing medical and health costs, not to mention the senseless tragedy of losing a friend or a loved one and the grief and suffering that brings. Last year's road toll was the lowest since World War II, but the Iemma Government is committed to further improvements. Technology has made our roads and cars safer. We have seen major road safety initiatives, like compulsory seatbelts, random breath testing and, now, random roadside drug testing. But we are committed to further improvements. I envisage the centre becoming a flagship institution. I want to see New South Wales leading the way with road safety improvements.

**The Hon. Greg Pearce:** Hand on hip!

**The Hon. ERIC ROOZENDAAL:** Why would the Hon. Greg Pearce talk about hands on hip? I do not want him harassing me. The New South Wales Centre for Road Safety will look at new and emerging road safety technologies, such as electronic stability control and improvements in safety devices, such as seat belts and child restraints. I am disappointed that the Opposition benches have so little interest in the importance of road safety in this State. I would have thought this important issue would require some serious concentration. The new Centre for Road Safety will consult with community groups and draw on a wide range of road safety expertise in New South Wales, including from motoring groups, insurance bodies and government agencies such as the NSW Police Force and the Motor Accidents Authority.

**The Hon. Christine Robertson:** Point of order: I am unable to hear the Minister's reply.

**The PRESIDENT:** Order! The Clerk will stop the clock. As I have said on a number of occasions, like other Presidents I do not expect there to be anything other than robust debate during question time. However, members should, at the very least, allow Ministers to answer questions asked of them in order that members who are interested can hear what is being said. A member has said that she cannot hear the Minister's answer. Accordingly, I uphold the point of order. In the interests of civility, if for no other reason, I ask members to allow the Minister to answer the question that has been asked of him. The Minister's time for speaking will resume.

**The Hon. ERIC ROOZENDAAL:** I thank you, Mr President, for that very sensible comment. The Centre for Road Safety will work closely with interstate and national bodies to drive national improvements. The centre will begin operations from 1 July, and will be fully operational by January 2008. The immediate task of the New South Wales Centre for Road Safety will be to develop new solutions to the number one killer on our roads—speeding. My instructions to the centre are simple: we must double our efforts to make speeding socially unacceptable. Over time New South Wales motorists have come to accept that drink-driving is dangerous and reckless behaviour. That is not the mindset with regards to speeding, but it should be when more than 200 people a year lose their lives as a result of speeding. That is where the New South Wales Centre for Road Safety comes in. The centre will provide advice to the Government on the best way forward. It will lead the way in road safety and help to make speeding socially unacceptable.

#### DEPARTMENT OF HOUSING CRISIS ACCOMMODATION

**Reverend the Hon. FRED NILE:** I direct my question without notice to the Minister for Primary Industries, representing the Minister for Housing. Is it a fact that the New South Wales Department of Housing is sending homeless persons, ex-offenders, people with mental health issues and recovering drug addicts to privately owned registered boarding houses? Is it a fact that this crisis accommodation, such as the Palmer Guest House, Palmer Street, Darlinghurst, is being overrun with dealers selling speed, heroin and the dangerous, addictive party drug, ice? What action is the Government taking to protect these vulnerable persons from exploitation by greedy landlords, by inspecting and registering only safe boarding houses?

**The Hon. IAN MACDONALD:** The question asked by Reverend the Hon. Fred Nile is quite important, and it should be treated accordingly. I will refer it to the Minister for Housing and obtain an answer as soon as possible.

#### ARMIDALE POLICE STATION DISABLED ACCESS

**The Hon. RICK COLLESS:** My question without notice is directed to the Minister for Education and Training, representing the Minister for Disability Services. Is it a fact that the New Armidale police station, which was officially opened in March 2007, has disabled access for police officers and staff but not for the general public? Is it a fact that all new public buildings are required to have disabled access for members of the public incorporated into their design and construction? Why was the new Armidale police station approved for construction without disabled access for the public? What action is the Minister taking to ensure that disabled members of the Armidale community will have access to the full range of police services in Armidale?

**The Hon. JOHN DELLA BOSCA:** I have not been to Armidale recently, but I love Armidale. It is a beautiful city, with some fantastic bookshops and good pubs. I must say that I am surprised by the tone of the member's question and its subject matter. I am not aware of the issue in relation to disabled access to the Armidale police station and I am not even sure of the age of the current police station at Armidale.

**The Hon. Michael Costa:** It is a new one.

**The Hon. JOHN DELLA BOSCA:** If it is one of the new stations, I am surprised at the subject matter of the question. Accordingly I will have it tested by the Minister for Disability Services, although I suspect it comes properly under the jurisdiction of the Minister for Police. I will have one or other of my colleagues provide an answer for the member.

### DOMESTIC VIOLENCE COURT INTERVENTION MODEL

**The Hon. AMANDA FAZIO:** My question is addressed to the Attorney General. Will he report on the status of the domestic violence court intervention model?

**The Hon. JOHN HATZISTERGOS:** The domestic violence court intervention model is an integrated criminal justice and community social welfare response to domestic violence. The model is based on successful overseas models for an integrated response to domestic violence, including those in the United States of America and in New Zealand, as well as on the best practice model identified in the Australian Capital Territory's family violence intervention program.

The two-year trial of the domestic violence court intervention model began in September 2005 in Wagga Wagga and Campbelltown. In December 2006 the Government committed an additional \$1.4 million over two years to the implementation of the program. The program aims to improve safety for victims of domestic violence who are in contact with the criminal justice system and to ensure that perpetrators of domestic violence offences are held to account for their actions. The model is an innovative collaboration between a range of government agencies that work together to improve safety for victims of domestic violence and increase offender accountability. The agencies involved are the courts, police, probation services, medical practitioners and community organisations, and they are led by the Attorney General's Department.

As I mentioned earlier, the program is being implemented in Campbelltown and Wagga Wagga. It was developed to improve the efficiency and quality of the criminal justice response to domestic violence. The aims of the program are to provide efficient and seamless support to victims of domestic violence throughout the entire prosecution process, improve the quality of the prosecution processes to obtain better criminal justice system outcomes, find the balance between individual victim's concerns and criminal justice system responsibilities to uphold the law, and provide integrated offender, victim and children's programs that are aimed at enhancing victims' safety and reducing repeat offending.

The program will achieve these outcomes through improved policing and prosecution, victim's support, programs for perpetrators, increased collaboration between legal and welfare agency responses, and by developing specialist knowledge and expertise for magistrates and stakeholders. Under the program, where a domestic violence matter is reported to police and there is evidence to warrant it, the program will improve collection of evidence and actively pursue charges, arrest an alleged offender, lay charges and issue a summons, apply for an apprehended domestic violence order, issue an offender with strict bail conditions, support victims throughout the criminal process, ensure that all files are tracked and monitored throughout the process, and improve brief preparations for court.

When a matter is appropriate for prosecution, the program will provide for the preparation of witnesses and ensure that support for victims and their safety is addressed. Victims advocate services are funded in both locations to provide support to victims during the court process. The Department of Corrective Services is delivering the Domestic Violence Perpetrated Program at the two locations to which I have referred, case-managing offenders at an interagency level, and supervising offenders. The New South Wales Police Force provides general duties officers, supervisors, domestic violence liaison officers and police prosecutors with specialist training, and standard operating procedures.

The Attorney General's Department contributes through the Local Court as well as by leading the overall administration and management of the trial. Early indications are that the program is achieving a positive change. During 2006 the percentage of defendants entering early guilty pleas at their second appearance increased from 17 per cent to 49 per cent, while the delay in the court listing at Campbelltown court has been reduced from almost 23 weeks to 13 weeks. The New South Wales Police Force has implemented new standard operating procedures that have been developed specifically for the program. The procedures have an emphasis on improved evidence collection, and that includes the use of new domestic violence kits containing digital still and video cameras that are now in every first-response vehicle.

The Department of Corrective Services has reviewed its programs for offenders. A new program has been developed that is more intensive and has a longer duration than have previous programs. The offenders program has been implemented by the Probation and Parole Service in both locations to which I have referred. It is currently being evaluated. Subsequently it will be modified on a continual basis to ensure its effectiveness in each location. The program is making the entire system at these two locations more efficient and effective. One example of the improvements is the number of apprehended domestic violence orders issued in Campbelltown. Since the introduction of the program, the Macarthur Legal Centre has reported an increase of 29 per cent in obtaining final apprehended domestic violence orders, a decrease of 33 per cent in withdrawal of orders and a greater ability to obtain support services for its clients, such as emergency housing and medical assistance.

#### **SNOWY WATER LICENCE REVIEW**

**Ms SYLVIA HALE:** I address my question to the Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development. By what date will the Snowy Water Licence be reviewed to comply with section 25 of the Snowy Hydro Corporatisation Act 1997? What steps has the Minister taken to initiate the review process? What form of public consultation will take place as part of the review?

**The Hon. IAN MACDONALD:** This is a very complex question that the Greens have been pursuing.

**The Hon. Melinda Pavey:** During the campaign, we heard you were setting up a committee.

**The Hon. IAN MACDONALD:** The Hon. Melinda Pavey is referring to the Scientific Committee. I regret to inform her that the question relates to the Snowy Water Licence review. I do not like to correct her in the House, but I just could not let her interjection go through to the keeper. The member should think before interrupting in future. The review is scheduled to take place this year and will be conducted by the Minister for Climate Change, Environment and Water, to whom I will refer the question to obtain details.

#### **PRINCES HIGHWAY KIAMA BYPASS ABORIGINAL SIGNIFICANCE SITE**

**The Hon. DON HARWIN:** My question without notice is directed to the Minister for Roads. Why was the site of the proposed southbound off-ramp from the Princes Highway Kiama Bypass identified as a place of possible Aboriginal significance only four months after the Roads and Traffic Authority finalised plans for the project, and not during the Roads and Traffic Authority's environmental, social, land use, traffic and vegetation conditions assessment of the options earlier in the year? Given that excavations were expected to begin within three months of the possible significance being identified, will he explain why it has taken five months for the Roads and Traffic Authority to commence archaeological excavations at the site? Will he confirm that construction, which was promised during the 2003 election to be completed by 2007, will definitely commence this year? To what current expected completion date is the Roads and Traffic Authority now working?

**The Hon. ERIC ROOZENDAAL:** I detect the tone of frustration in the honourable member's question. After all, this year's Roads budget was \$3.3 billion—a record Roads budget under the Iemma Labor Government. I am advised that was one of the reasons why the people of New South Wales re-elected the Iemma Labor Government. The Iemma Labor Government is spending \$27 million a day on infrastructure in this State to ensure that we can meet the challenges of the future. The Princes Highway is an important and major road transport corridor for New South Wales. The development of the Princes Highway is the highest road priority for the Government in the Illawarra and South Coast regions, on which I am advised the New South Wales Government has spent more than \$505 million since 1994-95.

*[Interruption]*

If the Hon. Don Harwin would listen, he would learn something. I would like to compare that amount with the measly \$39 million spent by the Federal Government. This is really one of the critical points in the lead-up to the Federal election: the Federal Government has completely shirked its responsibility to the people of the Illawarra. That is why the Hon. Don Harwin and others—

**The Hon. Don Harwin:** Point of order: A very specific question was asked about what the Roads and Traffic Authority has been doing on the Kiama ramp section of the Princes Highway. The Minister is now well away from that question.

**The Hon. John Della Bosca:** It is important background.

**The Hon. Don Harwin:** It is not background. My point of order relates to relevance. The Minister should be drawn back to the subject of the question.

**The PRESIDENT:** Order! I remind all Ministers that their answers must be relevant.

**The Hon. ERIC ROOZENDAAL:** I can understand the member's embarrassment, because for every \$1 that the Federal Government spends on the Princes Highway the New South Wales Government spends \$13. No wonder Opposition members are yapping away, they are embarrassed by their Federal colleagues as they swim in a budget surplus, desperately trying to spend it, but do not have the decency to find money for the Princes Highway. The Federal Government will not fund the Princes Highway. Perhaps that is a reflection of the quality of the Federal members representing the Coalition in that region or perhaps it is a reflection on the poor state of the New South Wales Opposition. But it is not for me to judge that. The Federal Government's continual failure to include the Pacific Highway south of Wollongong in the new national funding agreement, AusLink, is a massive snub to the people of the Illawarra, the Shoalhaven and the South Coast; and I know that the Hon. Don Harwin knows that and is embarrassed by it. I know, too, that behind closed doors he will argue to change that.

**The Hon. Duncan Gay:** Point of order: My point of order relates to relevance. The Minister was asked a discrete question about off ramps at Kiama. He should answer the question that was put to him. If he cannot, he should tell us so.

**The PRESIDENT:** Order! I again remind all Ministers that in accordance with Standing Order 65 (5) an answer must be relevant to the question asked.

**The Hon. ERIC ROOZENDAAL:** State funding to the Princes Highway has increased by 32 per cent to \$49.7 million in the current financial year. [*Time expired.*]

## ETHANOL

**The Hon. CHRISTINE ROBERTSON:** My question is directed to the Minister for Rural Affairs. Will the Minister update the House on the Iemma Government's support for the emerging ethanol industry in Australia?

**The Hon. TONY KELLY:** While the Federal Government sits on its hands, the Iemma Government is leading the way in Australia when it comes to driving growth in the ethanol and biofuel industries. We all know that, for a whole host of reasons, the use of biofuels such as ethanol and biodiesel makes sense for New South Wales and the nation. It makes sense for the environment and our efforts to combat greenhouse gas emissions; it makes sense for rural and regional jobs; and it makes sense for diversifying our energy supply and taking pressure off our spiralling fuel trade deficit, which has gone from \$488 million to \$10 billion in a decade. It makes sense to use biofuels in the future in attempting to reduce petrol prices.

Because it makes sense, New South Wales is leading a concerted push by the states to promote the fledgling domestic biofuel industry. However, what does not make sense is the weakness that the Federal Government is displaying when it comes to ethanol. The Federal Government talks tough when it comes to ethanol, but simply goes missing when it comes to concrete action. Instead, the Federal Government punishes the use of biodiesel; even the programs it touts as helping biofuel are riddled with sneaky cop-out clauses. For instance, last year the Federal Government announced the ethanol distribution program, which, on the surface, was a seemingly sensible move designed to help meet the costs of converting service station tanks to enable them to hold ethanol-blended fuel. What the Federal Government cleverly hid in the fine print was that the program would run for only 12 months, concluding on 1 October this year. That was never going to be long enough for the many thousands of New South Wales retailers to evaluate and organise their upgrades.

With the leadership of the states, products such as E10 are really gaining traction, with retailers and consumers alike beginning to realise the benefits offered by ethanol-blended fuels. However, with limited manpower to carry out the upgrades many operators face missing out on that crucial subsidy when the unrealistic time limit expires. We are left with a typical Federal Government ploy: a nice sound bite and media release but with a clever sunset clause that ensures that the Federal Government does not have to make any real financial commitment to the ethanol industry. It is The Nationals who should really hang their heads in shame

over the ethanol issue. The Nationals, the former Country Party—but which is now a long way from the country—should pull out all stops when it comes to the biofuel industry. A developing biofuel industry means jobs and investment for rural and regional Australia. Despite that and despite the drought, The Nationals sit still—saying nothing, doing nothing and helping no-one. They are as powerless in government in Canberra as they are impotent in Opposition in New South Wales.

If any Coalition members in this House had even a shred of interest in creating jobs for the people they represent, they would be banging on John Howard's door demanding that he extend this rebate, demanding he set an ethanol mandate, and demanding this important industry receive the support and direction it needs and deserves as it establishes itself across the country. The Iemma Government is getting on with the job of supporting the biofuel industry.

Shortly the Government will introduce legislation requiring that 2 per cent of all petrol sold in New South Wales be ethanol. We have established the E10 Task Force to chart a course for the development of that industry and to look at an extension of the mandate to a possible 10 per cent level by 2011. The Iemma Government has led by example by requiring its own fleet to use biofuel—that is, all the government fleet where available and practical. That is concrete action by the New South Wales Government against wishy-washy weasel words that will never work. *[Time expired.]*

### BEE COLONY COLLAPSE DISORDER

**Mr IAN COHEN:** My question is addressed to the Minister for Primary Industries. Have any apiarists reported to the Department of Primary Industries suspected cases of bee colony collapse disorder? Is anyone in the department responsible for keeping up to date on international research on the colony collapse disorder being carried out in the United States of America and Europe? If the cause of the colony collapse disorder is found to be contamination by the new family of pesticides, the neonicotinoids, what information is being collected about the use of those chemicals in New South Wales? Will the department be able to accurately map the use of neonicotinoids across the landscape?

**The Hon. IAN MACDONALD:** I have heard of the syndrome referred to by Mr Ian Cohen. It has been a considerable problem in the industry in the United States of America and was reported in the *Land* over the last couple of weeks. I am not aware of any cases reported in any bee colonies in New South Wales. It would be tragic if the disease did hit our bee colonies.

**The Hon. Duncan Gay:** It has not. We have an excellent industry.

**The Hon. IAN MACDONALD:** That is correct. We do have a substantial export industry in New South Wales. It is one of the best and most robust bee industries in the world, and we want that to continue. We are most concerned about this syndrome and we are monitoring the situation.

**The Hon. Michael Costa:** Is he against the bee industry?

**The Hon. IAN MACDONALD:** No, Mr Ian Cohen is opposed to pesticides and chemicals and is into organic farming. That is fair enough. If a link to this syndrome was evident, we would be proactive. I will take the honourable member's question on notice, to some degree, and give him a more comprehensive answer to it. At this point I am not aware of any incidents. Yes, we are looking carefully at the issue. We do not want that syndrome in this State; we want to protect our important export industry.

### F6 CORRIDOR RESERVATION

**The Hon. CHARLIE LYNN:** My question without notice is directed to the Minister for Roads, and Minister for histrionics. What is the Government's commitment to the construction of the F6 extension and increasing the carrying capacity on General Holmes Drive, the M5 East and King Georges Road, in view of the road and traffic chaos predicted for the St George region and the Sutherland shire over the next 25 years, and published in the AusLink Sydney Urban Corridor Strategy? What is the Government's commitment to increasing capacity on the Illawarra line?

**The Hon. ERIC ROOZENDAAL:** I am standing in this Chamber and I am thinking that this is the same group—

**The Hon. Michael Gallacher:** No, you don't. That is a lie. You are misleading the House.

**The Hon. ERIC ROOZENDAAL:** The Leader of the Opposition should just listen for a second. This is the same group that had no transport policy before the election. The explanation of the former shadow Minister for Transport was, "We do not want to announce a transport policy before the election because the Labor Party will just attack it." That was her defence for having no transport policy. Today Opposition members have again raised this issue. For the clarification of the honourable member, I am not responsible for the Illawarra line—I assume the honourable member is talking about the rail line—since there is no road called the Illawarra line. I will pass that part of the honourable member's question on to the appropriate Minister who looks after transport.

In relation to the F6, which is an issue that is often discussed in this House, honourable members well know that the F6 transport corridor has been in place since 1951. The metropolitan strategy for Sydney was released in December 2005—I wish the honourable member would acquaint himself with it—and it outlines that. In the short term the Government will investigate the future use of the existing F6 corridor reservation. The Government has decided to retain the full corridor between Loftus and St Peters to provide capacity for possible future transport use.

**The Hon. Duncan Gay:** What uses are possible?

**The Hon. ERIC ROOZENDAAL:** I am glad that the honourable member asked me that question. I will explain it to him. Such uses could include a road, a bus way, a cycleway, light rail and/or heavy rail. However, there are no immediate plans for any transport projects in the F6 corridor. The honourable member should be well aware that in 2002 the results of a public transport use assessment study on the F6 corridor were released, and they are also on the public record. It is important for us to treat seriously the issue of managing congestion in Sydney. Obviously, we have a number of projects in place. For example, our \$660 million urban transport statement deals with ways of improving public transport and the motorway system. That includes \$100 million to target pinch points on the Sydney road network, to identify and rectify those matters, and to improve traffic flows.

An amount of \$100 million has been allocated for the duplication of Iron Cove Bridge and to resolve issues on Victoria Road. This Government has a major commitment to bus corridors, with 43 bus corridors having been identified in New South Wales. We are committed to a comprehensive strategy for both public transport and roadways to ensure that we keep people moving in and around Sydney.

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

#### **THE ROCK CENTRAL SCHOOL DEMOUNTABLE CLASSROOMS**

**The Hon. JOHN DELLA BOSCA:** During question time Dr John Kaye asked me about demountables being held at Goulburn. I am advised that the demountable buildings held at Goulburn are being kept for refurbishment in readiness for anticipated requirements for the start of the 2008 academic year. The Department of Education and Training has advised that no suitable demountables at Goulburn would be available to meet the needs of Young Public School. Young Public School needs a four-module classroom and the only demountable that could be made available is a three-module classroom, which is not large enough to accommodate the class at that school.

As I said earlier, in 2003 The Rock Central School was informed that the demountable in question was surplus to its entitlement and that the school should be prepared for it to be removed when required. Schools such as The Rock Central School are able to retain and continue to use classrooms that are surplus to their enrolment quota until required for removal. In this case they were required to service the interests of children at Young Public School.

#### **DR PATRICK POWER AND MS ROSEANNE CATT PROSECUTION**

**The Hon. JOHN HATZISTERGOS:** During question time Ms Sylvia Hale asked me a question relating to matters concerning Roseanne Catt. I think I indicated that I was seeking advice from the Crown Advocate. It is, in fact, the Crown Solicitor.

**Questions without notice concluded.**

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



**STANDING COMMITTEE ON LAW AND JUSTICE****Report: Impact of the Family Law Amendment (Shared Parental Responsibility) Act 2006 (Cth)****Debate resumed from 9 May 2007.**

**The Hon. CHRISTINE ROBERTSON** [2.31 p.m.]: I am pleased to commence debate on the thirty-third report of the Standing Committee on Law and Justice, entitled "Impact of the Family Law Amendment (Shared Parental Responsibility) Act 2006". The report was tabled with the Clerk out of session in late November last year. The former New South Wales Attorney General, the Hon. Bob Debus, MP, and the former Minister for Community Services, the Hon. Reba Meagher, MP, referred the inquiry to the Standing Committee on Law and Justice on 19 September 2006. The issue was brought to the attention of the committee and the Ministers by the Opposition Whip in the other place, Daryl Maguire, who wanted the Parliament to examine certain issues. The inquiry's terms of reference were formulated through consultation with Mr Maguire and the Ministers' offices.

The inquiry addressed important and sensitive issues, and I appreciate the efforts of my fellow committee members in producing a consensus report. The committee was asked to inquire into, and report on, the impact of the Commonwealth Family Law Amendment (Shared Parental Responsibility) Act 2006 on women and children in New South Wales and on the operation of court orders that prohibit the perpetrators of family violence from coming into contact with their families. The amendment Act continues the Commonwealth Government's attempt to encourage parents who are separating to use non-court based dispute resolution rather than costly and time-consuming litigation. While the committee supports the general aim of moving away from litigation in family matters, we are concerned that the unintended effects of the latest amendments to the Commonwealth Family Law Act 1975 may result in harm to women and children in New South Wales.

The possibility that the amendments may expose women to family violence and may subordinate the best interests of the child to the interests of the parents were the most concerning elements of our inquiry. The committee heard evidence from a range of experienced family law practitioners, including representatives of the Law Society of New South Wales, the Combined Community Legal Centres Group, Women's Legal Services New South Wales and several private practitioners. The committee also heard from New South Wales government agencies such as the Legal Aid Commission of New South Wales and the Attorney General's Department.

When the inquiry was conducted late last year the amendments had only recently come into effect. While the committee made some recommendations that addressed the more immediate implications of the changes, the evidence provided by witnesses made it clear that the issues should be revisited in the future. The committee therefore recommended that the New South Wales Attorney General instigate a future review that will allow the full impact of the changes, relevant research and decisions of the full court of the Family Court of Australia to be considered. I turn now to the detailed issues examined in the report. I will also explain the committee process. The committee met to discuss the inquiry's short time frame. We accepted the terms of reference very late in the electoral cycle and were concerned about whether we would be able to do justice to the report.

*[Interruption]*

I am most disappointed that committee members are not listening to my contribution. The committee decided to advertise for and accept submissions from as many persons and groups as possible and to hold a one-day hearing. This is an incredibly sensitive issue and some groups found it difficult to meet that short time frame. However, the process enabled the committee to get a good overview of the situation. Some groups expressed the strong wish to make representations to the committee. Mr Maguire arranged for particular witnesses to give evidence at the hearing and committee members asked questions on behalf of other groups. As a consequence the process was as equitable and fair as we could make it in such a short time.

One of the key amendments to the Act is a requirement from 1 July 2007 that parents attend family dispute resolution and make a genuine effort to resolve a dispute before applying for a parenting order through the Family Court of Australia or the Federal Magistrates Court. Family dispute resolution is guided under the Family Law Act towards agreement on a parenting plan, which is a non-binding written agreement between parents relating to parenting responsibilities post-separation. The requirement to undergo family dispute resolution does not apply when there is family violence or abuse, or the risk of family violence or abuse. It was

clear from the evidence that there are several areas of concern in relation to the family dispute resolution process established by the amendment Act and the Commonwealth's associated family law reform agenda.

Of particular concern is the fact that family violence may go undetected if screening tools used at family relationship centres and by accredited family dispute resolution practitioners are inadequate. A number of submissions to the inquiry highlighted the power imbalance that may occur in dispute resolution as a result of a failure to identify family violence. The committee therefore recommended that the New South Wales and Commonwealth governments work together to ensure that staff at family relationships centres are trained suitably and use appropriate screening tools to identify cases involving family violence.

In addition, given that a number of New South Wales government agencies deal with family violence issues, the committee considered it appropriate for these agencies to establish links or consult with family relationships centres to assist New South Wales families with family violence issues. In this regard, the committee recommended that the New South Wales Government work with the Commonwealth Government to establish protocols to enable government and non-government agencies in New South Wales to assist family relationship centre staff in dealing with cases involving family violence.

Given the serious implications of failing to identify and address family violence, New South Wales government agencies have a responsibility to help women and children meet the requirements to prove family violence in cases when it is known to exist. The committee therefore recommended that the New South Wales Government develop protocols for involving the Department of Community Services in assisting individuals within families to satisfy the requirements to prove family violence when it is known to exist. Under the amendments, parties attending family relationship centres will not be legally represented and staff at family relationships centres will not provide legal advice.

The committee believes that legal advice, and the availability of legal representation during the family dispute resolution process, is important to safeguard the best interests of women and children. The committee considers that steps should be taken by the Commonwealth Government to offer New South Wales residents the alternative of lawyer-assisted mediation. Further, the committee notes that the alternative dispute resolution service provided by the New South Wales Legal Aid Commission is an appropriate mediation model. Consequently, the committee believes that the Commonwealth Government should take steps to adopt this model at its Family Relationship Centres in order to ensure satisfactory mediation outcomes.

The evidence clearly showed that Aboriginal women and children are likely to be particularly affected by the amendments, given the high incidence of family violence in indigenous communities. As a consequence, indigenous communities need access to services that are culturally sensitive. The committee is concerned that the Commonwealth provision of additional funding for indigenous services at the Lismore Family Relationship Centre is insufficient to cater for the needs of the State's entire indigenous population. The committee therefore recommended that the New South Wales Government negotiate with the Commonwealth Government to secure additional funding for indigenous services at all family relationship centres located in areas with significant Aboriginal populations.

The committee was advised that there will be a maximum of just 11 family relationship centres in New South Wales once the requirements for compulsory dispute resolution take effect in mid 2007, with a further 10 centres to be opened in 2008-09. This number is likely to be inadequate to service a population of more than six million people. Further, the committee has serious concerns that a small number of family relationship centres, and their sparse distribution across the State, will significantly disadvantage rural and regional populations.

The committee concluded that the Commonwealth Government should adequately resource the infrastructure to ensure everyone has easy access to family relationship centres. The committee recommended that the New South Wales Government discuss the number and location of family relationship centres with the Commonwealth Government and request that future decisions about the location of family relationship centres be made in conjunction with the relevant New South Wales government agencies. This would ensure that decisions are based on accurately identified population and demographic need.

Another significant change implemented by the amendment Act is the requirement that the courts apply a legal presumption of equally shared parental responsibility whenever a parenting order is made. This means that where possible both parents will have an equal role in making decisions about major long-term issues involving the children. This presumption does not apply in cases where there are reasonable grounds to believe

there is family violence or abuse. In addition, the Family Law Act now requires the court to consider whether spending equal time with both parents is practicable and in the best interests of the child. If the court finds such arrangements are in the best interests of the child, and reasonably practicable, then it must make an order that the child spend equal time with each parent. If the court does not consider this appropriate it must instead consider whether the child should spend substantial and significant time with both parents.

Several inquiry participants expressed concern that the introduction of a legal presumption of shared parental responsibility and consideration of equal time or substantial and significant time is promoting the rights of parents at the expense of the best interests of the child. The committee formed the view that the full impact of the new presumption may take a while to emerge. The committee's recommendation is that a further review be undertaken to address this concern.

The evidence showed a lack of community understanding about the implications of the amendments, particularly the presumption of shared parental responsibility. The committee concluded that individuals in New South Wales may be seriously disadvantaged if they undertake mediation without full appreciation of their rights and responsibilities under the Family Law Act. The committee recommended that a public education campaign needs to be undertaken in New South Wales to inform parties in divorce and separation proceedings of the impact of the amendments.

The committee also examined the requirement that the court must order a party to pay some or all of the costs of the other party if it determines that a false allegation or statement has knowingly been made in the proceedings. There is also a friendly parent consideration, where the court takes into account the willingness and ability of parents to facilitate a relationship between the other parent and the child. In addition, the definition of "family violence" now includes an explanatory note on the meaning of "reasonable" in relation to a person's reasonable fear of violence, creating a stricter definition than exists in New South Wales courts for apprehended domestic violence orders [ADVOs]. The evidence indicates that these amendments will increase the difficulty of proving the existence of family violence.

The committee heard that the combination of the stricter definition of "family violence", penalties for false accusations and the friendly parent consideration is likely to act as a significant deterrent to women disclosing the existence of family violence during divorce or separation proceedings. This is one of the issues that led to the committee's overall recommendation that the Attorney General conduct a future review of the impact of the amendment legislation. The report also provides an analysis of the impact of the amendment Act on the operation of court orders to prevent family violence perpetrators coming into contact with their families.

The amendment Act provides that only contested or final apprehended domestic violence orders are considered in the determination of parental responsibility. Many inquiry participants expressed concern that this may lead to an increased number of applications for ADVOs, and an increase in the number of ADVOs that are defended, with consequences for local court resources. The committee believes it is important that the New South Wales Government monitor the impact of these amendments on the incidence of ADVOs, and associated resourcing issues for State courts and support services.

The committee recommended that the New South Wales Attorney General's Department monitor the incidence of ADVO applications, and the incidence of defended ADVO applications, and conduct research to determine the relationship between the amendments to the Family Law Act and any change in incidence. This research should be used to inform resourcing decisions for State courts and associated support services. The evidence clearly showed scepticism about the effectiveness of the changes covering those situations where there is a conflict between federally based Family Court orders and state-based family violence orders. There is scepticism in particular about the likelihood that State courts will use the powers they have under the Family Law Act to vary Family Court orders.

The committee is concerned that, unless magistrates and police prosecutors can confidently use these powers, situations may arise where women and children are at risk of family violence. The committee therefore recommended that the New South Wales Attorney General's Department work with the Chief Magistrate to develop and implement a practice note to provide guidance to New South Wales magistrates. The committee recommended that the information contained in the practice note should form the basis of training provided to New South Wales police prosecutors.

In this inquiry the committee also examined the enforcement of Family Court orders in New South Wales. Ideally, Family Court orders require cooperation between parents who have been through a stressful and

possibly acrimonious court proceeding. The committee believes that the existing Family Court mechanisms for enforcing Family Court orders, and the extent of the involvement of police, are adequate and appropriate for the resolution of disputes. There are further issues but, in conclusion, the evidence presented to the committee showed that the changes brought about by the amendment Act are likely to have a significant impact on the women and children of New South Wales. Some of these impacts are immediate, while the full extent of others will be played out over time. The report sets out a range of recommendations.

I thank all members of the committee. As usual, the committee operated positively to arrive at an outcome for the relevant persons. I especially thank the secretariat for doing a particularly good job in researching and producing this report.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [2.46 p.m.]: I support the motion to take note of this report. This inquiry arose from widespread concern about the Commonwealth Government's latest amendments to the Family Law Act. These amendments are a radical departure from the principle that has always put the best interests of the child firmly at the heart of any decision made in relation to custody. I have grave concerns that the new changes will bring harm to women and children in New South Wales.

While the inquiry determined that the full impact of the changes are yet to be determined, the report highlights a number of issues which require action now and further review. I fully support the recommendations made by the committee and congratulate it on being able to reach a consensus report. I also note that the Government's response has very carefully considered the potential impact of this law and the ramifications for women and children in New South Wales. I am pleased that the Attorney General has agreed to review the situation again in 2009.

I turn particularly to the compulsory mediation aspects of the laws, the concerns I have about inadequate resourcing of the family relationship centres and the potential impact these laws may have on undermining existing New South Wales laws against domestic violence. The new family law amendment requires that parents attend compulsory family dispute resolution before applying for a parenting order under the Family Law Act. As legislators we should always strive to find ways that enable individuals and communities to resolve matters in simpler and fairer ways. The introduction of community mediation and initiatives such as circle sentencing and youth justice conferencing are examples that so far are working very well within our communities.

The issue of concern with the Family Law amendment is that while it provides an exemption for the requirement for compulsory mediation where there is family violence or the risk of family violence, the question remains: How confident are we that the new system will actually be able to identify family violence and protect the women and children subjected to it? Cases of family breakdown involving family violence are too common. We are not speaking of isolated instances.

A recent survey of Australian women examined by the Australian Institute of Criminology found that 34 per cent had been subjected to domestic violence by an intimate male partner. Not surprisingly, the rate of violence amongst separating couples is even higher. Research by the Australian Institute of Family Studies indicates that violence is an issue for 66 per cent of separating couples, with 33 per cent describing that violence as serious.

The impact of violence on children and young people who are victims or witnesses of domestic violence is also of particular concern in relation to these proposed amendments. Several studies have shown that children witness 85 per cent to 90 per cent of domestic violence offences and that in an estimated 60 per cent of families where domestic violence is occurring child abuse is also occurring. Furthermore, a national crime prevention study found that up to one-quarter of young people in Australia have witnessed an incident of physical domestic violence against their mother or stepmother. When children are raised in violent and fearful households their development is put in jeopardy. Exposure to violence can affect the child's sense of security and how the child relates to people later in life.

Research also shows that violence can result in regressive symptoms such as increased bedwetting, delayed language development and separation anxiety. Both aggression and depression are common symptoms exhibited by those exposed to violence early in life. Failure to protect both child victims and child witnesses of family violence carries with it the risk of perpetuating the cycle of violence in the next generation. Such research highlights the very real dangers to both women and children that may arise if victims of domestic violence are left to negotiate parenting agreements with perpetrators without adequate advice and assistance.

I draw attention to the Government's response and to anecdotal evidence reported at the Community and Disability Services Ministerial Advisory Council in March 2007. Members in other State and Territory jurisdictions noted that they were already concerned about family relationship centres, which they allege are forcing women who had experienced domestic violence to be involved in mediation with the perpetrators of the violence. There are other anecdotal reports of abused children being required to have contact with the perpetrators of the abuse. Though that evidence remains anecdotal, we must keep a very close watch on it.

The aim of the recommendations in the committee's report is to ensure that both the Commonwealth and the New South Wales governments take all steps necessary to ensure that the circumstances set out in the report do not eventuate. The recommendations cover five matters. The first is the development of new protocols to enable New South Wales agencies such as the Department of Community Services to assist family dispute resolution practitioners to deal with cases involving family violence. The second is the option of giving New South Wales residents access to lawyer-assisted mediation through family relationship centres. The third is additional funding for indigenous services for all family relationship centres located in areas with a significant indigenous population. The fourth is consultation between New South Wales and the Commonwealth to ensure an adequate number and distribution of family relationship centres in the state. And the fifth is a public education strategy.

It is vital that screening for family violence is effective, as parents attending for family dispute resolution will not be legally represented, nor will the staff of family relationship centres give legal advice. Family dispute resolution is different from other forms of family law mediation, in which lawyers are on hand to advise the parties of their legal rights and responsibilities in relation to any proposed agreement. As the role of the family dispute resolution practitioner is to facilitate an agreement, rather than to advise either of the parties of their rights or responsibilities, it is critical that the power balance between parties to family dispute resolution be relatively equal.

With women who are victims of domestic or family violence—women who are far more likely to suffer from low self-esteem, confusion, feelings of worthlessness, panic, depression and despair—the power balance between victim and perpetrator will be far from equal. The low self-esteem that characterises victims of domestic violence means they are often reluctant to speak up, even when speaking up is in their own interests. The last Australian Bureau of Statistics survey of women's safety found that 40 per cent of women subjected to domestic violence by their current partner do not disclose the experience to anyone. This reluctance to break the silence makes the identification of family violence a difficult task, and one that only staff who are adequately resourced, trained and supported will be able to undertake.

Mediating for women who have experienced or are experiencing domestic violence has inherent difficulties. Recent research undertaken in Victoria by Relationships Australia, in conjunction with the Domestic Violence and Incest Resource Centre, found that in some cases mediators do not adequately assess non-physical forms of abuse and control; women who had experienced violence felt coerced by their partners to make agreements; and women frequently found that the man who had used violence was noncompliant once plans were drawn up. This research makes clear that effective screening requires staff with extensive skills, experience and support.

The committee's report highlights that there is a real and genuine concern that the Commonwealth Government will fail to adequately fund and resource the staff at family relationship centres to enable them to effectively screen for family violence. The resourcing of those family relationship centres is, I believe, inadequate. Just take the example of New South Wales: there will be a maximum of only 11 family relationship centres in this State when the amendments, as proposed, take effect next month. Although a further 10 family relationship centres are to be provided in 2008-09 some of those centres will come on line years after the amendments take effect. And even when all 21 centres are up and running, that is likely to be insufficient to service a population of six million people. This is simply poor planning.

The Commonwealth is providing additional funding for indigenous services at only one family relationship centre in New South Wales, despite the high incidence of family violence in indigenous communities across the State. Putting aside for the moment the fact that indigenous women are particularly reluctant to discuss family violence issues, especially with non-indigenous people, this is simply inadequate. The Commonwealth has failed to make provision for an adequate number and distribution of family relationship centres and has failed to ensure that the available centres can service a diverse client base.

The committee's report also makes a series of other recommendations that are designed to respond to widespread concern that the recent amendments to the Family Law Act may work to undermine the

effectiveness of existing New South Wales laws against domestic violence. A number of the Commonwealth's amendments are intended to address the perception that family violence orders such as apprehended domestic violence orders are being used strategically for advantage in family law matters. For example, provisions that require that only final or contested apprehended domestic violence orders be considered when determining parental responsibility may affect the number of apprehended domestic violence order applications made and the number of applications that are defended.

New provisions governing conflict between Family Court orders and, say, apprehended domestic violence orders may prove difficult to administer. As the report points out, there is no substantive evidence that family violence orders are being used to gain advantage in family law matters. It would be tragic, to say the least, if a misguided endeavour to placate the other unfounded fears of some work to undermine the effectiveness of apprehended domestic violence orders in this State. Apprehended domestic violence orders and the systems and services that have been put in place to support them represent the outcome of decades of work by women in New South Wales, both inside and outside government. These women have campaigned to raise awareness about domestic violence, undertaken the practical work necessary to support victims, and lobbied vigorously for legislative changes.

The Crimes Amendment (Apprehended Violence) Act passed in the final session of the previous Parliament was only the most recent of many attempts to grapple with this difficult issue. The results of more than 20 years of legislative reform aimed at regulating and preventing domestic violence should be safeguarded. The New South Wales Government continues with implementing a full range of initiatives to combat domestic violence. For the sake of women and children facing the trauma of family breakdown in the context of domestic violence, and in recognition of the work done by so many to defend the rights of those survivors and protect their interests, I commend this report to the House.

*[Business interrupted.]*

#### **DISTINGUISHED VISITOR**

**DEPUTY-PRESIDENT (Ms Sylvia Hale):** I draw the attention of members to the presence in the President's gallery of the Hon. Michael Egan, a former member of this House.

#### **STANDING COMMITTEE ON LAW AND JUSTICE**

##### **Report: Impact of the Family Law Amendment (Shared Parental Responsibility) Act 2006 (Cth)**

*[Business resumed.]*

**The Hon. TREVOR KHAN** [2.56 p.m.]: I speak on this matter from a number of capacities—first, and obviously, as a member of this Chamber, but also as a lawyer who practised in family law as well as, tragically, acting over the years for a number of people who have been the subject of domestic violence, including in one circumstance a lady who lost her life in a murder-suicide in the context of family law. That truly brings home that these matters are tragic. That case involved the loss of a mother and father, with two children being left in circumstances of great tragedy. These are not matters that can in any way be belittled; they are not matters that should ever be treated as anything but of the utmost importance.

As a lawyer, I was a member of the Family Issues Committee of the Law Society at the time this new legislation came into effect. Along with the vast majority of members of that committee, I was entirely in support of the amendments to be made to the Family Law Act. The reason for that support was the recognition of the need to have an effective dispute resolution system put in place, and the recognition by the general community, as well as both sides of the Federal Parliament, that there was a fundamental problem with the way family law was being administered in this country.

That fundamental problem was perceived to be, perhaps with some regret, the excessive presence of lawyers in the negotiation process. It was perceived, perhaps partly correctly, that the very presence of lawyers tended to exacerbate relations between the parties and prolong the dispute. When one considers family violence in the context of family law one must take into account that a prolongation or an exacerbation of a dispute greatly increases the potential for violence.

When the Federal Parliament considered this matter it was the desire to do justice to the parties by reducing the likelihood of a dispute and thereby reducing the likelihood of violence that was a significant factor

in the decision-making process. One must remember that when the legislation was introduced it received great support from all parties. One must also remember that in the Federal Parliament many people of great conscience who sit on both sides had the opportunity to consider the matter and take into account the matters put forward, including some of those raised by the Hon. Penny Sharpe.

The legislation arose in part from a lengthy inquiry headed by the Hon. Kay Hull, who travelled the country from one side to the other and from the north to the south. She accepted a very wide range of submissions from interested parties, which was the appropriate way to proceed. As a result of the inquiry the legislation was introduced. My recollection is that the report from the inquiry was unanimous. However, it seems that some people, particularly the Hon. Penny Sharpe, are under a misunderstanding. I refer particularly to the paramountcy principle—the paramount interest of the child. In no way has the legislation affected the paramountcy principle. I say that not just because I know the Act but I because I have practised in accordance with the Act. I have advocated in the Federal Magistrates Court and the Family Court of Australia, and on a number of occasions I have been confronted by a recognition that the paramountcy principle will be taken by the courts as the starting point and, in truth, the end point of its consideration for appropriate orders to be made in respect of children.

The paramountcy principle has been enshrined in legislation from the start. It is ingrained in the judiciary. It is the bedrock upon which the Family Law Act operates. No-one in this Chamber should think the legislation has changed in that regard. Although I understand some of the concerns, and although I recognise that a great deal of thought has gone into the committee recommendations, the intention of the Federal Parliament as expressed in legislation is to provide a better way forward for people involved in matrimonial disputes.

The legislation certainly has attracted a great deal of criticism, but the intention behind it is, to say the very least, noble. Plainly, the number of family relationships centres is an issue, and it must be an issue. Conflicts of interest in relation to advice and assistance will arise, and those matters should be reviewed in due course. With that said, this is good legislation. The ideology behind it is fundamentally sound.

**The Hon. LYNDIA VOLTZ** [3.04 p.m.]: I speak on the Standing Committee on Law and Justice final report on the "Impact of the Family Law Amendment (Shared Parental Responsibility) Act 2006 (Cth)" on women and children in New South Wales. The Family Law Amendment (Shared Parental Responsibility) Act 2006 is part of the Commonwealth Government's effort to encourage the use of non-court based dispute resolution, which is aimed at saving separating parents from expensive and protracted litigation under the traditional paradigm.

The New South Wales Government supports the avoidance of needless litigation when it comes to family matters. However, unintended consequences may arise from these Federal amendments to the Family Law Act 1975, consequences that may leave women and children at risk of harm. The amended Act has the potential to disadvantage women and children, particularly those who are victims, or at risk, of domestic violence. That is why the very first recommendation by the committee asks the New South Wales Attorney General to:

Instigate a future review of the impact of the Family Law Amendment (Shared Parental Responsibility) Act 2006 (Cth) on families in New South Wales and on the operation of court orders that can prevent family violence perpetrators coming into contact with their families.

In its response the New South Wales Government raised concerns about the capacity of the new family relationships centres to identify such matters and to be culturally sensitive when the situation warrants it. The New South Wales Government is concerned that the new requirement for compulsory mediation in family disputes could lead to situations where women who have been the victim of violence are forced to undergo mediation with the perpetrator of the violence. The Government is committed to a review, but not one that will be premature. The impact of the legislation will not be fully understood until the amended Act has been in operation for a reasonable period. Although the Family Law Amendment (Shared Parental Responsibility) Act 2006 commenced on 1 July 2006, the compulsory mediation provisions will not commence until 1 July 2007. Therefore it is appropriate that a reasonable amount of time elapse before the review is instigated. This will allow the efficacy of the legislation to be more accurately and more comprehensively gauged.

I note that the New South Wales Government, in its original submission to the inquiry, voiced its concern about a worrying increase in applications for apprehended violence orders, an increase that is possibly linked to the emphasis of the amended Act on apprehended violence orders as evidence of family violence. Such

changes have implications for the resources of the New South Wales Police Force, relevant courts, and the Legal Aid Commission. Therefore the New South Wales Attorney General's Department needs to give serious consideration to the committee's recommendation that research be conducted into any changes in the use of apprehended violence orders—changes that are related to the Commonwealth's family law amendments.

Amendments to the Family Law Act alter the way in which apprehended domestic violence orders interact with Family Court orders. Division 11 of part VII of the Family Law Act seeks to negotiate the inconsistencies between such orders and Family Court orders, thereby preventing Family Court orders from inadvertently bringing about family violence. Family Court orders render ineffective previously made apprehended domestic violence orders. Parenting orders made by the Family Court must take into account the apprehended domestic violence order, but the court can modify it.

Similarly, State courts may vary Family Court orders when they are dealing with apprehended domestic violence orders. As I said, the salient objective of this arrangement is the protection of vulnerable people from the possibility of family violence. I understand that the committee heard evidence that suggested uncertainty about the effectiveness of the changes to division 11, and whether State courts would be willing to vary Family Court orders.

Another possible consequence of new division 11 is a multiplicity of hearings on the same issue. This arises from section 68Q, which provides that an apprehended domestic violence order may be made invalid if it is not consistent with a Family Court order, but only to the degree that it is inconsistent. It seems that the court issuing the order will need to consider the evidence that engendered the original apprehended domestic violence order before rendering it invalid—a process that may result in parties having to revisit the ordeal associated with obtaining the order in the first instance.

Moreover, section 68R complicates matters further by providing State and Territory courts with the power to vary, discharge or suspend Family Court orders. Whilst the section may sound straightforward enough, invoking the new section is no easy task and makes it harder to change family law orders. It is therefore fitting that the committee's eleventh recommendation asks that the New South Wales Attorney General's Department work with the Chief Magistrate to develop and implement a practice note that will help New South Wales magistrates with the application of division 11 of part VII of the Family Law Act.

Whilst the Government acknowledges the concerns of the committee, practice notes have their genesis in the courts. It is not for the Attorney General's Department to interfere when it is clearly a matter that is within the purview of the Chief Magistrate. It should also be noted that significant levels of legal education are afforded to magistrates. According to the Government's response to this recommendation, education in relation to domestic violence-family law issues is an integral part of the ongoing training.

The Government has also indicated that the Local Court bench will be updated in line with the changes in the family law jurisdiction. The section of the bench book on apprehended domestic violence orders informs magistrates on the issue of parental contact with children and the associated requirements. The committee also found that the Family Law Amendments (Shared Parental Responsibility) Act 2006 may lead to an increase in contested apprehended domestic violence orders, which, logically, would require the commensurate availability of legal advice to prevent people from being denied a fair trial. The majority of apprehended domestic violence order cases, approximately 70 per cent, are brought by police prosecutors. Legal aid is not always available to defendants. Legal aid exists for socially and economically disadvantaged people and is underpinned by the principle that the legal system can function only if people have equitable access to it.

The committee felt that actual or potential victims of domestic violence should be included in this group of disadvantaged people. The committee therefore recommended that the New South Wales Government should investigate the possibility of establishing a duty solicitor in specific courts. People who have suffered domestic violence are in a vulnerable position of need. It is essential that parties to a court's proceedings receive adequate legal advice. The New South Wales Government is interested in whether a duty solicitor scheme at relevant courts would be of assistance to defendants in matters concerning apprehended domestic violence orders. While it is true that many of the defendants advised by the Legal Aid Commission of New South Wales in relation to apprehended domestic violence order proceedings are not aware of the consequences following the making of an apprehended domestic violence order, the demand for such advice is a significant strain on the resources of the Legal Aid Commission of New South Wales.

The salient need to advise defendants about what apprehended domestic violence orders entail, especially as regards consenting to an apprehended domestic violence order with or without admissions,



warrants the investigation of how the establishment of a duty solicitor scheme will assist in meeting this demand. That is why the New South Wales Government has submitted in its response that the Attorney General's Department, through the Legal Aid Commission of New South Wales, will investigate the feasibility of such a scheme. The Government also noted that any increase in funding for defendants in apprehended domestic violence order proceedings should be balanced with the need for the alleged victims to receive equal legal representation.

I commend the work of the Standing Committee on Law and Justice on this matter and I congratulate the Government on its response, which is a strong indication that it will not stand for women being exposed to family violence. The Commonwealth should also take note to ensure that family relationship mediators are adequately trained so they are able to recognise domestic violence issues and tackle them in an appropriate and culturally sensitive manner. The New South Wales Government is concerned about reports suggesting that family relationship centres provide mediation to couples where violence has occurred. Mediation is an exercise in futility when there is a power imbalance between the victim and the perpetrator. The Commonwealth must ensure that the staff of family relationships centres and other family dispute resolution practitioners are suitably trained and that they have at their disposal appropriate screening tools to identify and deal with family violence.

**The Hon. MELINDA PAVEY** [3.14 p.m.]: It is with pleasure that I speak to the report of the Standing Committee on Law and Justice on the impact of the Family Law Amendment (Shared Parental Responsibility) Act. I commend the comments by my colleague the Hon. Trevor Khan during the debate. Much of the work done by The Nationals Federal member for Riverina, Kay Hull, resulted in a House of Representatives inquiry being set up in December 2003 and conducted by the then Standing Committee on Family and Community Affairs. The work of that Federal committee resulted in very positive legislation to protect children.

The legislation helps to keep families together, or at least helps to keep family members talking, to prevent a breakdown in communication. Through conversations I have had with Kay Hull and my many other Federal colleagues throughout New South Wales I now know that the life of a Federal member of Parliament is taken up greatly by issues of family law, access to children and the breakdown of families.

The work of Kay Hull and the Standing Committee on Family and Community Affairs has been incredibly important to family relationships throughout this country. The committee's report, "Every Picture Tells A Story", advocated the concept of shared parental responsibility within the context of preserving the best interests of the child. The inquiry received 1,700 submissions from everyday people throughout Australia who have been affected by Family Court decisions that have added to the pressures of family breakdowns. My colleague the Hon. Trevor Khan is of the view that the best thing about amendments to the Family Law Act is that resolution of family issues is brought about early in the process by keeping families talking and by creating arrangements that facilitate contact between parents in separate abodes and discussion of issues as mother and father, with the best interests of the children being paramount. What better way to create a better environment for families who are experiencing the difficulties of a marriage breakdown?

In a sense I am disappointed that the resources of this House were so quickly applied to the investigation of failed family relationships to the extent that the issue of domestic violence was somewhat overshadowed. I support the comments by my colleague the Hon. Trevor Khan: Tamworth and Coffs Harbour are indeed fortunate to have family relationship centres among the 65 such centres that have been established across Australia. Resourcing of family relationships centres must be continually monitored. More centres should be established where they are needed. The Coalition will keep pressure on the Government to ensure that the funding of those centres is adequate. I take this opportunity to acknowledge the work of the Federal committee and the contribution made at a Federal level by The Nationals member of the House of Representatives Kay Hull in getting the ball rolling, so to speak.

**Debate adjourned on motion by the Hon. Melinda Pavey and set down as an order of the day for a future day.**

## **BUSINESS OF THE HOUSE**

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

#### **Motion by the Hon. Greg Donnelly agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 44 outside the Order of Precedence, relating to a Standing Committee on Law and Justice report, be called on forthwith.

### **Order of Business**

#### **Motion by the Hon. Greg Donnelly agreed to:**

That Private Members' Business item No. 44 outside the Order of Precedence be called on forthwith.

### **STANDING COMMITTEE ON LAW AND JUSTICE**

#### **Report: Community Based Sentencing Options for Rural and Remote Areas and Disadvantaged Populations**

**The Hon. CHRISTINE ROBERTSON** [3.20 p.m.]: I move:

That the House take note of the report.

I am pleased to commence debate on the thirtieth report of the Standing Committee on Law and Justice, entitled "Community Based Sentencing Options for Rural and Remote Areas and Disadvantaged Populations", which was tabled on 30 March 2006. The length of time taken to commence the take-note debate on this report almost reflects the length of time taken to prepare the report. The committee process included an incredible round of communication with many persons—people who work tirelessly with persons with a disability. The members of the committee worked incredibly hard to deliver this report, and I am pleased to advise that the Government's response to the report endorsed the work of the Committee. It should be noted that legal organisations use this report as a model to advance some of their issues—an indication of the breadth of the consultation conducted in the preparation of the report. I remind members also that I almost managed to kill myself in the middle of the inquiry, and that tended to slow down the process somewhat.

The committee welcomed this important inquiry, which was referred by the Attorney General, and undertook a thorough examination of the terms of reference. I am pleased to have tabled the Committee's report. In order to seek the views of a wide range of individuals, organisations and government agencies on this important reference the Committee undertook a comprehensive evidence-gathering process. It made a public call for submissions and published a discussion paper to assist those who provided submissions. The committee received 60 submissions in total.

Five days of public hearings were held at Parliament House at which 46 witnesses gave evidence. The Committee visited the Holy Family Centre at Mount Druitt to meet with members of the local Aboriginal community and representatives of government and non-government agencies working with people serving community-based sentences. The committee visited also several towns in rural and remote New South Wales to gather further information and to facilitate the participation of people from those areas in the inquiry. It visited Bourke, Brewarrina, Griffith, Inverell and Bega, where it held public hearings with 40 local witnesses and conducted public forums. I take this opportunity to apologise to the Hansard staff, who reported those hearings and forums, many of which took the form of a facilitated process with people contributing continually. I congratulate Hansard on being able to provide a report of those proceedings.

The Committee also undertook a site visit to the Yetta Dhinnakkal Correctional Centre, at Brewarrina. The visits to these rural and remote areas were particularly informative, and the impressions of committee members were constructive in the preparation of the report. The Committee also conducted a site visit to Victoria to meet representatives of Corrections Victoria. The opportunity to examine community-based sentencing initiatives being undertaken in another jurisdiction was a most useful exercise.

The terms of reference for this inquiry were broad. They encompassed the range of community-based sentencing options available in New South Wales, as well as focused on two distinct but related issues—rural and remote areas, and disadvantaged groups. The written and oral evidence presented to the Committee revealed a large number of concerns held by members of the legal profession, advocacy and community groups, government agencies and members of the public. In its report the committee focused on the four primary community-based sentences available in New South Wales: community service orders, suspended sentences, periodic detention and home detention.

The committee also undertook an overall analysis of the availability of community-based sentencing options in rural and remote areas. An examination of the issues relating to disadvantaged offenders and their ability to access community-based sentencing options is also contained in the report. The report includes also an

examination of whether it is in the public interest to introduce a back-end home detention scheme in New South Wales.

I will now discuss the issues examined in this report in more detail. Community-based sentences are not primarily based on a prison setting; rather, they are carried out wholly, or to a large extent, in the community. Community-based sentences have become widespread in many countries in recent years and represent one of the most important developments in sentencing in the last few decades. Their increased use is a reaction to many factors including the limitations of the prison system in rehabilitating offenders, the rising prison population, the costs associated with housing prisoners, and changing community attitudes to punishment for criminal offences.

New South Wales and other jurisdictions have progressively increased the range of sentencing options available to a court. Where formerly the only punishment available for most crimes was a term of imprisonment in a custodial setting, a range of sentencing options is now available that, while retaining a punitive and deterrent effect, recognises more specifically the community's interest in the rehabilitation of the offender.

The majority of community-based sentences in New South Wales are handed down by the Local Court and are administered by the Community Offender Services Division of the Department of Corrective Services. The Probation and Parole Service, which is part of the division, plays a substantial role in the administration of community-based sentences by preparing suitability assessments and supervising offenders subject to supervised bonds, community service orders and home detention. In this report the committee expressed its strong support for community-based sentencing options as a means of both punishment and rehabilitation for appropriate offenders.

Submissions and oral evidence received by the committee largely supported the concept of community-based sentencing, with several advantages being identified. The many benefits to the offender and the offender's family derived from the offender serving a sentence in the community rather than in a full-time custodial setting were highlighted. Other benefits were more global, relating to lowering the prison population, reducing recidivism and achieving cost effectiveness. However, some disadvantages of community-based sentencing were also identified, including the perception that these sentences are lenient and that offenders serving their sentence in a non-custodial setting pose a risk to the community.

Sentencing has come under considerable review in New South Wales and other jurisdictions in recent years. The Committee's work followed on from, or coincided with, several reviews, including the New South Wales Law Reform Commission's long running inquiry into sentencing, the Legislative Council's Select Committee on the Increase in the Prisoner Population, the New South Wales Sentencing Council's review of abolishing prison sentences of six months or less, and two recent statutory reviews of the legislation relating to sentencing procedure and the administration of sentences carried out by the Attorney General and the Minister for Justice respectively.

The evidence presented to the inquiry revealed considerable gaps in the availability of community-based sentences in many rural and remote parts of New South Wales. The Committee discovered that supervised bonds, community service orders, periodic detention and home detention are not available in many parts of the state.

**Debate adjourned on motion by the Hon. Christine Robertson and set down as an order of the day for a future day.**

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979: DISALLOWANCE OF  
ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (DESIGNATED  
DEVELOPMENT) REGULATION 2007**

**Debate resumed from an earlier hour.**

**The Hon. MICHAEL COSTA** (Treasurer, Minister for Infrastructure, and Minister for the Hunter) [3.29 p.m.]: This regulation should not be disallowed. Once again the Greens, deliberately and without shame, are wrong on this issue as they are on every other issue. The regulation is both sensible and sensitive to the environment. Unfortunately, once again it appears that both Ms Sylvia Hale and Mr Ian Cohen have distorted the facts about the way in which the regulation works. The regulation was gazetted in response to a decision of the Court of Appeal. I note that a member of the Opposition quoted from the Court of Appeal decision of Justice

Tobias but conveniently neglected to quote the most appropriate part of it, which was that the judge asked the Government for this regulation. There is no response from the Greens to that. As I said, the regulation was gazetted in response to a decision of the Court of Appeal.

**The Hon. Don Harwin:** What did he say?

**The Hon. MICHAEL COSTA:** I will read it out. Honourable members should not think for one moment that I will not read it out. That judgment explicitly invited the Minister to clarify the issue under the Act. For the benefit of Ms Sylvia Hale—as I said, it seems as though she did not bother to read the justice's judgment—I shall read it now. This is for the benefit of the Hon. Don Harwin, who should not walk away.

**The PRESIDENT:** Order! The Minister should direct his comments through the Chair.

**The Hon. MICHAEL COSTA:** The judgment reads:

It is always open to the Minister to amend category 29 of part 1 of Schedule 3, if so advised, to exclude a septic tank servicing a single dwelling house.

Justice Tobias made that statement, and that is why the Government took this action. The judge continued:

In my opinion that would be a more appropriate response to the respondent's submission than one which adopts an approach to the issue designated development which, in my view, cannot be sustained and is contrary to the purpose and objects of the EP&A Act as a whole.

Justice Tobias from the Court of Appeal delivered that judgment on 23 November 2006. The judge invited us to go back and do precisely that if we sought to pursue government policy in this way. In fact, he said it was a more appropriate response, and that is why we are implementing it. And we are doing so because the Government, as opposed to the Greens, believes in water recycling. We believe that the environment is important.

**The Hon. Melinda Pavey:** And desalination plants?

**The Hon. MICHAEL COSTA:** I have no problems with a desalination plant.

**The Hon. Melinda Pavey:** You should.

**The Hon. MICHAEL COSTA:** I have no problem at all. Its main aim is to facilitate water recycling projects. As I said, I was surprised to hear the Greens condemning a regulation that would boost the volume of recycled water in New South Wales. It is staggering that they would do that, but the Greens always stagger me. I thought that the Greens were in favour of water recycling. All this seems to prove the point I made earlier: This is really not about recycling; it is about the Greens playing games and being mischievous, as they usually are, for political purposes.

**Mr Ian Cohen:** Unlike you.

**The Hon. MICHAEL COSTA:** I certainly do not invent an entire religion in order to frighten people into voting for the Greens, like members of the Greens have done. I stand on a platform that is available to everyone. Even Opposition members are able to put a position to the public that, if people vote Labor, they vote for Michael Costa. Well, the public voted for Labor so clearly I have a mandate to continue doing what I do, as opposed to the Greens, who seek to do anything they can to distort and trivialise issues, and to frighten little children into voting for them.

**The Hon. John Ajaka:** You are there because of their preferences.

**The Hon. MICHAEL COSTA:** I note that the Coalition has accepted some weird preferences in its day, and I will refrain from talking about council politics. I welcome Zorro's interjection. The honourable member is hereby christened "Zorro".

**Ms Sylvia Hale:** The Treasurer need say the joke only once. We don't need it repeated multiple times. Most people catch on the first time.

**The Hon. MICHAEL COSTA:** I have to listen to Ms Sylvia Hale multiple times and she is the biggest joke in the place. She has just defeated her own argument.

**The Hon. Matthew Mason-Cox:** Don't hold back, Michael.

**The Hon. MICHAEL COSTA:** I was referring to the performance of Ms Sylvia Hale yesterday. The regulation removes the need to prepare environmental impact statements for sewer mining projects either for industrial or for low capacity use. That is less than 1,500 kilolitres per day. For the benefit of the Greens, sewer mining is a type of water recycling that involves removing effluent from the sewerage system for treatment and use, and returning the remaining water to the system. Previously these small-scale private water-recycling projects were a designated development. The regulation simplifies the assessment process, and cuts out red tape—we all want to cut out red tape, especially the red part!—in order to encourage water recycling in New South Wales by industry, commerce and agricultural ventures. That is why this regulation should not be disallowed. I have pages and pages of notes on this matter but I do not intend to read them all. I am sure that most sensible people agree with the Government on this issue and that this disallowance motion will be rejected.

**The Hon. DON HARWIN** [3.35 p.m.]: We are debating the disallowance of an amendment to the Environmental Planning and Assessment Act relating to on-site sewage treatment plants and designated developments under part 3 of the Environmental Planning and Assessment Act, and whether or not they require an environmental impact statement. The Government argues that development should not be unnecessarily impeded and where the on-site treatment plant is truly ancillary to a development—let us remember that we are talking about ancillary developments—there should only be a need for a statement of environmental effects. As the Opposition is persuaded that that position is correct, it will not be supporting the disallowance motion.

**Ms SYLVIA HALE** [3.36 p.m.], in reply: The Greens are sensible and sensitive to the environment—I think that is the hallmark of all our activities. Our concern for the environment is the motivation for this disallowance motion. The Minister suggested that the regulation had been made possibly at the suggestion, the invitation, or the request of Justice Tobias. However, I believe that the judge in that case was merely outlining the options that were available to the Government. If members look at the text of the speech of the decision by Justice Tobias, they will find that it clearly sets out the environmental damage that can result from the unfettered approval of on-site sewage treatment plants that are not accompanied by an appropriate environmental impact statement.

Undoubtedly, the Greens support water recycling such as sewer mining. It would have been preferable if one could have disentangled the sewer mining provisions in this regulation from those that deal with what constitutes designated development. Unfortunately, the references to sewer mining are to be found throughout the entire regulation rather than in a specific portion of it, so it was not possible merely to extract the designated development references, ignore them, and set to one side those regarding sewer mining.

Reverend the Hon. Fred Nile advanced that case in his contribution, when he claimed that we should support those sections of the regulation that deal with sewer mining. The Greens have not addressed sewer mining—a process that we generally support. But, regardless of whether it is sewer mining or sewerage works, we object to those parts of the regulation that severely restrict the circumstances in which an environmental impact statement is required. In any case, the amending regulation has been drafted in such a way that it is not possible to extract the sewer mining section from it. It is not a separate section of the regulation—apart from reference to it in the list of definitions—and is integrated into parts of the regulation to which we object.

Because the Greens object to the restriction on the requirement for an environmental impact statement we must seek to disallow the whole of the amending regulation, not just a portion of it. If the House decides to disallow the regulation we will invite the Government to draft a new regulation that deals specifically with sewer mining to which we will give due and appropriate consideration. That is obviously the preferable course but it is a course that the Treasurer is presumably reluctant to pursue.

Reverend the Hon. Fred Nile pointed out that an environmental impact statement will still be required for sewage treatment plants in certain circumstances. I accept that. But we are seeking to disallow the amending regulation because it severely limits those circumstances. The Parklands matter, which was dealt with by the Court of Appeal, is an excellent example. This is not a theoretical exercise. Parklands provides an opportunity to see exactly what effect this amending regulation will have. The effect is that a development of 84 dwellings situated next to a World Heritage area and 150 metres up slope from a creek that feeds into Sydney's water

supply will be allowed to include an on-site sewage treatment plant with the capacity to disperse more than 25,000 litres of sewage per day around the site without an assessment being made of the likely impact on the environment and the water supply.

It is an extraordinary proposition that such a development should proceed without an initial assessment of its impact. Yet that is the effect of this amending regulation. Not only is the effect of the amendment to the regulation relevant to the Parklands development; the amendment may also impact directly on a similar project in Bungendore, near Braidwood, in southern New South Wales. The Bungendore Residents Group recently won a similar case against Palerang Council and a local developer challenging the approval of a 47-lot subdivision in the town. Justice Pain of the Land and Environment Court found in that case that the consent given by Palerang Council had legal errors. Specifically, Justice Pain found that an environmental impact statement should have been provided by the developer due to the inclusion of a sewage treatment plant in the development. The Bungendore Residents Group was motivated by concerns about stressed town drinking water supplies and the potential contamination of drinking water by the development's sewage treatment plant.

The Greens are clearly not anxious to impede developments such as sewer mining and the recycling of water and effluent. But we are concerned that this amending regulation that we are seeking to disallow will permit the construction of facilities such as on-site sewage treatment plants the impact of which on the surrounding environment—in this case the plant will impact on the Blue Mountains World Heritage site and the drinking water supplies of Sydney and the Blue Mountains communities—may be very grave. It is too late to say after the event, "We made a mistake; we're sorry that all this damage has occurred", when it is clearly within the power of the House to prevent such damage occurring in the first place by disallowing the regulation and reverting to the previous regulation. The Government could then gazette a further regulation that deals with sewer mining. That is the course of action that a responsible government, a responsible planning Minister and a responsible Treasurer would take. But, unfortunately, sensible, responsible and sensitive legislation is not the hallmark of this Government. I commend the motion to the House.

**Question—That the motion be agreed to—put.**

**The House divided.**

**Ayes, 3**

Mr Cohen

*Tellers,*

Ms Hale

Dr Kaye

**Noes, 33**

Mr Ajaka  
Mr Brown  
Mr Catanzariti  
Mr Clarke  
Mr Colless  
Mr Costa  
Ms Cusack  
Ms Fazio  
Ms Ficarra  
Miss Gardiner  
Ms Griffin  
Mr Kelly

Mr Khan  
Mr Lynn  
Mr Macdonald  
Mr Mason-Cox  
Reverend Dr Moyes  
Reverend Nile  
Mr Obeid  
Ms Parker  
Mrs Pavey  
Mr Pearce  
Ms Robertson  
Mr Roozendaal

Ms Sharpe  
Mr Smith  
Mr Tsang  
Mr Veitch  
Ms Voltz  
Mr West  
Ms Westwood

*Tellers,*

Mr Donnelly  
Mr Harwin

**Question resolved in the negative.**

**Motion negatived.**

**SENATORS' ELECTIONS AMENDMENT BILL 2007****Second Reading**

**The Hon. JOHN DELLA BOSCA** (Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance) [3.54 p.m.]: I move:

That this bill be now read a second time.

As the second reading speech is lengthy, and has been given in the other place, I seek leave to incorporate it in *Hansard*.

**Leave granted.**

The Commonwealth has recently amended the Commonwealth Electoral Act 1918 to reduce the close of rolls period for Commonwealth elections from seven days to three days after the writ for an election has been issued.

This reduced close of rolls period applies to enrolled electors who need to update their details.

In addition, in the case of most new enrolments and re-enrolments, the roll will close at 8.00 p.m. on the day on which the writ is issued.

The effect of these reforms is that the Commonwealth Act is now inconsistent with the close of rolls section in the New South Wales Senators' Elections Act. That section provides that the rolls close for the election of Senators from New South Wales seven days after the writ is issued.

New South Wales has serious concerns about the Commonwealth amendments.

Many voters do not fix up their enrolment details until they become aware that an election has been called.

Given that the Prime Minister has a broad discretion to determine the timing of the election, the effect of these reforms is that it will now be too late for many people to enrol once a Commonwealth election is called. Even if they fix up their enrolment details, these people will not be able to vote until the following election.

Despite these concerns, I am advised that under the Commonwealth Constitution, the New South Wales Government cannot prevent these Commonwealth reforms from taking place.

Further, the close of rolls provision in the New South Wales Act has no legal force and has been displaced by the Commonwealth close of rolls provisions.

It would not be desirable for New South Wales to leave the New South Wales Act as it is because this would create a direct inconsistency with the Commonwealth Act and might create confusion.

Accordingly, it is proposed to remove the close of roll provision from the New South Wales Act altogether.

The bill does just that by repealing the close of rolls provision in section 4 of the Senators' Elections Act.

I reiterate the New South Wales Government's reservations about the Commonwealth reforms.

The potential unfairness of the Commonwealth changes must be countered by a widespread enrolment education campaign.

This campaign should take place well before the next Commonwealth election is called.

I urge all voters to check their enrolment details now, so that they will be able to exercise their right, and fulfil their obligation, to vote in the next Commonwealth election.

I commend the bill to the House.

**The Hon. DON HARWIN** [3.57 p.m.]: I lead on behalf of the Opposition and indicate at the outset that it supports the Senators' Elections Amendment Bill. The bill seeks to amend the Senators' Elections Act 1903 to omit provisions pertaining to the close of electoral rolls that are no longer consistent with the Commonwealth Electoral Act 1918. A secondary aim of the bill concerns the removal of those sections that repeal provisions of the Federal Elections Act 1900. The latter piece of legislation was actually repealed in its entirety in 1912, and so the aforementioned sections of the Senators' Elections Act 1903 are now superfluous.

The principal purpose of the bill is to omit section 4 of the Senators' Elections Act 1903, which provides that the electoral rolls be closed seven days after the date of the writ. Expunging this part of the Act, and leaving the Act silent as to the timing of the closure of the electoral roll, will effectively result in the rolls closing three working days after the date of the writ, as per the Commonwealth Electoral Act 1918. This will

continue the longstanding practice of having consistency of State and Federal electoral rolls. The desirability of consistency between the two levels of government is the primary argument for supporting this legislation.

Having conflicting provisions about the timing of the closure of the electoral rolls would cause confusion. It would also allow differences to appear between the Federal and State rolls that would not only pose practical difficulties for voters but also undermine the integrity of our electoral system by potentially opening it up to abuse. The integrity of the electoral roll must always be zealously protected against fraud. While the primary reason for supporting the bill is to ensure the preservation of consistent Federal and State electoral rolls, it is worth noting the circumstances that have made the bill necessary.

Last year the Federal Parliament passed amendments to the Commonwealth Electoral Act 1918 which constituted the most significant updating of the Act in more than two decades. Designed to promote electoral integrity, many of the changes were long overdue and many stem from the recommendations made by the Federal Parliament's Joint Standing Committee on Electoral Matters after its inquiry into matters pertaining to the conduct of the 2004 Federal election.

The committee concluded that the close of roll period is the most vulnerable time for electoral fraud because the ability of the Australian Electoral Commission [AEC] to thoroughly check the veracity of enrolments was impaired by the volume of people coming forward to change their enrolment or to be included on the roll for the first time. In public hearings the Electoral Commissioner, Mr Ian Campbell, acknowledged the enormous burden of work placed on commission staff in the period between the issuing of the election writs and the holding of the election. He concurred that shortening the period between the issuing of the writs and the closing of the roll would substantially reduce that burden.

Under the changes passed last year by the Federal Parliament, the close of rolls period after the writ is issued has been reduced from seven days to three working days. During this period people already enrolled may update their details, 17-year-olds who will turn 18 before or on the election day may enrol and people who expect to become Australian citizens by election day may also enrol. Anyone else needing to enrol or re-enrol must do so before 8.00 p.m. on the day on which the writs are issued. This includes people who had previously been enrolled but whose names have been objected off or expunged from the roll. Bringing the close of the electoral roll closer to the issuing of the writs will reduce the opportunity for fraudulent enrolment. The capacity of the commission to accurately scrutinise any changes to the roll made during this period will be enhanced. And from the point of view of electoral integrity this can only be a desirable outcome.

The Senate's Finance and Public Administration Legislation Committee considered the impact of the change and concluded that while there were "possible side effects the reduced time for enrolment measures designed to strengthen and protect the integrity of the electoral roll are essential for upholding Australia's democratic system [and that] limiting the scope for electoral fraud is therefore important, both in principle and practice". The rush to either enrol or amend enrolment in the days after the calling of an election is, of course, largely caused by voters failing in their responsibility to ensure that their enrolment is accurate. It is the responsibility of new electors to enrol to vote once they have attained the age of 18 years, and for some time now the Australian Electoral Commission has allowed the provisional enrolment of 16-year-olds to make initial enrolment easier. Those voters who are already on the electoral roll are responsible for changing their enrolment within one month of changing their principal place of residence.

In order to remind individuals of their obligations with regard to enrolment, and with the aim of counteracting any unintended consequences from the earlier closing of the rolls, the Australian Electoral Commission has embarked on the most significant pre-election enrolment advertising and public awareness campaigns in its history. The national media campaign was launched last Sunday. It encourages all adult Australians to value their vote and accurately enrol before this year's Federal election. The campaign will run for the next six weeks on television and radio, in cinemas, newspapers, magazines and websites and will include advertisements in more than thirty languages. This first week of the campaign is also the Australian Electoral Commission's inaugural national Enrol to Vote Week, which will involve 1,700 secondary schools and colleges across the nation actively encouraging 17- and 18-year-old students to enrol this week.

In launching the campaign the Electoral Commissioner reminded Australians that it remained their responsibility to enrol and update their enrolment when they moved address. He also reminded them that individuals could check their enrolment status at the Australian Electoral Commission website, any commission office or by calling its 13 23 26 number. The Australian Electoral Commission should be commended for embarking on this enrolment awareness campaign, unprecedented in scale, in the months before the next Federal



election,. It is acting to counter any unintended side effects from the recent amendments to the Commonwealth Electoral Act. With this campaign and the earlier closure of the rolls, voters can have greater confidence in the accuracy of the roll and the integrity of our nation's democratic system. This increased confidence will also apply here in New South Wales in due course.

One of the benefits of a fixed parliamentary term is that the date of the election is known for years in advance. With voters aware of the election date, the issuing of the writs can hardly come as a surprise, as it perhaps can be at a Federal level, where the Prime Minister can call an early election at almost any time—although, in practice, there has not been a truly early election at a Federal level for some time. In New South Wales the argument that voters need a substantial period between the issuing of the writs and the closing of the rolls lacks any veracity whatsoever.

An accurate and properly scrutinised electoral roll is a fundamental part of a sound democracy. With the closing of the rolls being brought closer to the issuing of the writs, in combination with an extensive public awareness campaign regarding enrolment obligations, the integrity of our electoral roll is being well protected and well promoted. This bill ensures that these changes to the Commonwealth Electoral Act apply consistently to the electoral roll used in New South Wales at the Federal and State levels and we are pleased to give it our support.

**Mr IAN COHEN** [4.04 p.m.]: I speak on this bill on behalf of the Greens and my colleague Ms Lee Rhiannon, who is necessarily absent at this time. The push by the Howard Government to close the electoral rolls early undermines the integrity of democracy in Australia. It locks out many young and disadvantaged people from the democratic process. It is yet another appalling outcome of complete Coalition control of the Senate. It is disappointing, to say the least, that this change has been forced on the New South Wales electorate. The Greens acknowledge that the consequences of closing the rolls early for New South Wales elections are not as dire as they are at a Federal level. New South Wales has fixed terms. Theoretically, voters should not be caught completely unawares by the issuing of writs. There is a predictable time in which to run education campaigns to get people to enrol. However, I suspect that a significant number of people in New South Wales may still fall between the cracks.

The calling of an election is a significant and obvious trigger to people to enrol or update their details. Closing the rolls early undermines the democratic franchise and was brought in at a Federal level for the blatant advantage of the Howard Government. Closing the roll early stands to disproportionately impact young people. And, surprise, surprise, young people tend to vote for progressive parties, such as the Greens.

**The Hon. Amanda Fazio:** Come on! Not just the Greens.

**Mr IAN COHEN:** I acknowledge the interjection. I think it would also be reasonable to say that in a great number of cases they would also support the Australian Labor Party before they would the Coalition parties. So there is certain value electorally for the position that the Howard Government has taken on this matter. Surely the quality of democracy is a measure of how inclusive the electoral process is for all citizens—the extent to which the electoral machinery goes to ensure that marginalised people are given every opportunity to enrol and vote. The legitimacy of a government depends on the principle that it represents all citizens. A democracy that scrimps on this principle is surely not worthy of the tag of a just form of societal organisation.

In the Federal election the early closure of the rolls will silence the democratic rights of many. Young people are very vulnerable to this change; 18- to 24-year-olds have the lowest enrolment rate of any age group eligible to vote. People from a non-English speaking background, people from rural and remote communities, people in alternative communities, people from disadvantaged backgrounds and the homeless and itinerant are very vulnerable. These groups have traditionally low participation rates. Closing the rolls early is a blatant attack on some of the most disadvantaged members of our community. It is a manipulation of the electoral system by the Howard Government.

The Electoral Commissioner of the Australian Electoral Commission, Mr Ian Campbell, recently provided Australian Electoral Commission figures to a parliamentary inquiry on the number of changes made to the electoral roll in the seven-day period before the close of the rolls prior to the 2004 Federal election. Mr Campbell stated that 423,000 people either enrolled for the first time or changed their enrolment details. Of this figure, 78,908 people enrolled for the first time; 78,494 people re-enrolled—that is, they had been enrolled, they had been objected off the roll, but the Australian Electoral Commission still had a record for them; and 255,000 people had changed their enrolment details.

This move to close the rolls early is not out of the blue but comes on top of previous attempts by the Howard Government to undermine the Federal electoral process. In the 1996 budget the \$2 million Aboriginal and Torres Strait Islander Electoral Information Service was slashed. More recently, the Howard Government raised the bar for evidentiary requirements for enrolment. The reason given by Senator Abetz for closing the roll early was that it safeguards the integrity of the process as the Australian Electoral Commission does not have the resources to check and assess the veracity of enrolment claims received. Surely the solution to the Australian Electoral Commission's problem of poor resourcing is more resources, not limiting the number of people that enrol. The Federal Government should provide the Australian Electoral Commission with the resources it needs, not cook up ways to deny people the chance to vote.

This change to Commonwealth and State legislation leaves Australia and New South Wales dragging shamefully behind other developed democracies. Canada allows young people to enrol on the day when they turn up to vote. New Zealand gives young people until the day before the election, and it also allows young people to ask for their enrolment form through a free text message. The Greens recognise that this change to electoral process has been forced on New South Wales by the Howard Government and acknowledge the efforts by Federal Labor to resist this change in Parliament. I understand that the Federal Australian Labor Party has promised to repeal these laws if elected in the upcoming election. I urge Labor to stick to this commitment and be assured that Greens senators will also seek to overturn these laws at the Federal level.

**Reverend the Hon. FRED NILE** [4.09 p.m.]: The Christian Democratic Party supports the Senators' Elections Amendment Bill 2007. The bill repeals the close of rolls section of the Senators' Elections Act, which currently provides that the electoral rolls close for the election of senators from New South Wales seven days after the writ for a Commonwealth election is issued. Recent amendments to Commonwealth electoral legislation have reduced the close of rolls period for a Commonwealth election from seven days to three days after the writ for an election has been issued. This period applies to enrolled electors who need to update their details. In addition, new enrolments and re-enrolments will close at 8.00 p.m. on the day on which the writ is issued.

Obviously, this will put pressure on people to ensure that they are enrolled, whether they are new citizens or young people reaching the age of enrolment. It is hoped that the Australian Electoral Commission [AEC] will bring this to their attention, and that they will have their names placed on the rolls before the Federal election later this year. New South Wales must accept the Commonwealth's decision. I note that the Commonwealth Act provides a date fixed for the close of electoral rolls to be three working days after the issue of the writ. However, the practical effect of the Commonwealth Act is to close the rolls on the issue of the writ, because the Commonwealth Act generally prevents names from being added to or removed from the electoral rolls after the issue of the writ. The date of the writ has now become quite critical. We support the legislation.

**Ms SYLVIA HALE** [4.11 p.m.]: As a supporter of democratic participation in the government of this State and also this country I condemn the bill. It will have the effect of making it harder for people to enrol to vote or to change their enrolment details once the writ is issued for a Senate election. Unfortunately, New South Wales is compelled to introduce this mirror legislation. However, that does not make it better legislation. The object of the bill is to amend the Senators' Elections Act 1903 to omit the provision that is now inconsistent with Commonwealth legislation relating to the close of the electoral rolls for the election of senators for New South Wales. The practical effect of the Commonwealth Act, which the bill mirrors, is to close all the rolls on the issue of the writ because the Commonwealth Act generally prevents names being added to or removed from the electoral roll after the issue of the writ. Thanks to the Howard Government citizens of this State and of Australia will not have seven days to update their details if they are enrolled; they will have only three.

People who are not enrolled to vote will have until 8.00 p.m. that very same day to enrol. Theoretically, the Government could issue the writ at 7.59 p.m., giving no-one the chance to enrol. A young person, a person who has moved, a person who has limited time and has not got around to changing their enrolment details, a person unable to get to a post office to pick up the form or without access to the Internet, or a person living in a remote or regional area may not be able to vote. Young, renting, rural and regional people will be the ones who miss out—exactly the sort of people who may not vote for John Howard and the Coalition because they are the ones who are being paid the same amount for working on Sundays or at midnight as they are being paid for working on a weekday, thanks to the Howard Government's "WorkSlavery" laws. Electoral changes are just another brick in the wall that the Howard Government is building between voters and democracy in Australia. The Greens oppose these laws, but we understand that the New South Wales Government cannot legally prevent their passage. Such is democracy in Australia.

**The Hon. JOHN DELLA BOSCA** (Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance) [4.14 p.m.], in reply: I thank all honourable members for their contributions, and I commend the bill to the House.

**Question—That this bill be now read a second time—put and resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

### **Third Reading**

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

That this bill be now read a third time.

**Bill read a third time and returned to the Legislative Assembly.**

## **COMMISSION FOR CHILDREN AND YOUNG PEOPLE AMENDMENT (PARLIAMENTARY JOINT COMMITTEE) BILL 2007**

### **Second Reading**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [4.15 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

As the second reading speech is lengthy I seek leave to have it incorporated in *Hansard*.

### **Leave granted.**

The Committee on Children and Young People monitors and reviews the exercise of the functions of the Commission for Children and Young People and the Child Death Review Team.

The Committee also examines trends and changes in services and issues affecting children and reports to both Houses of Parliament on any changes it thinks desirable to the functions and procedures of the Commission for Children and Young People and the Child Death Review Team.

The Committee is a joint parliamentary committee which currently has 11 members.

The former Speaker of the Legislative Assembly wrote to the Premier to suggest that the size of the Committee be reduced to seven members prior to re-appointing it after Parliament commences.

The former Speaker advised that while the Committee's current size reflected the high demand to serve on it when the Committee was first established, circumstances may have now changed and that Members of Parliament have high demands on their time.

Reducing the size of the Committee will help improve the functioning of Parliament and will reduce the demands on Members' time, possibly making some Members available to serve on other committees.

Importantly, the Government considers that changing the number of members on the Committee will not adversely affect the Committee's ability to carry out its review functions.

Reducing the size of the Committee to seven members will make its size consistent with two other joint parliamentary committees. These are the Committee on the Office of the Ombudsman and the Police Integrity Commission and the Committee on the Health Care Complaints Commission.

As Members would be aware, each of these committees effectively and efficiently carries out its review functions with the same number of members as is proposed by this Bill.

For these reasons, the Government supports the former Speaker's request to reduce the size of the Committee to seven members.

I would like to thank past and present Members who have previously served on the Committee for their efforts.

I commend the Bill to the House.

**The Hon. CATHERINE CUSACK** [4.15 p.m.]: The Opposition supports the bill. It will bring the committee in line with other committees. We anticipate it will enable the committee to function more efficiently

because it will be easier to arrange meetings. My understanding is that three members of the Legislative Council will be appointed to the committee. I am very hopeful, on the latest advice from my Whip, that I will be one of them.

**The Hon. Amanda Fazio:** Thanks for the early warning.

**The Hon. CATHERINE CUSACK:** I note the Hon. Amanda Fazio refers to "early warning". We are really looking forward to the Government convening these parliamentary committees. We note that the number of parliamentary secretaries has increased from eight to 10. However, we are pleased that the Parliament is doing its bit for efficiency by reducing committee membership. We look forward to the Government being able to convene these committees in the very near future. I look forward to the opportunity to serve on the committee. The Office of the Commissioner on Children and Young People performs a very important role. Its research projects have been very credible and effective, particularly its successful work on child employment laws. Most significant of all is the Child Death Review Team, which has become a standard that other States can only aspire to. The Commissioner for Children and Young People provides a secretariat for the Child Death Review Team and works closely with the Ombudsman, who follows up with annual reports. The Office of the Commission on Children and Young People undertakes significant and important work. We support the legislation and look forward to a high-performing committee, when it is eventually convened.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [4.17 p.m.], in reply: I thank honourable members for their incredibly detailed contribution to the debate. The Government supports the former Speaker's request that the size of the Committee on Children and Young People be reduced to seven members. Reducing the size of the committee will help to improve the functioning of Parliament and reduce demands on members' time, which may make them available to serve on other committees. It is important to note that the Government considers changing the number of members on the committee will not adversely affect its ability to carry out its review functions. I have served on the committee, and I wholeheartedly endorse its work. I commend the bill to the House.

**Question—That this bill be now read a second time—put and resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

### **Third Reading**

**Motion, by leave, by the Hon. Penny Sharpe agreed to:**

That this bill be now read a third time.

**Bill read a third time and returned to the Legislative Assembly.**

## **TRANSPORT ADMINISTRATION AMENDMENT (PORTFOLIO MINISTER) BILL 2007**

### **Second Reading**

**The Hon. JOHN DELLA BOSCA** (Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance) [4.19 p.m.]: I move:

That this bill be now read a second time.

As the second reading speech is lengthy and has been made in the other place, I seek leave to have it incorporated in *Hansard*.

**Leave granted.**

This Bill will amend the *Transport Administration Act* to remove provisions which prohibit the Minister for Transport from becoming one of the two voting shareholders of—

Rail Corporation New South Wales

Transport Infrastructure Development Corporation

Rail Infrastructure Corporation

and Sydney Ferries.

It will allow the Minister for Transport to have dual roles as both the Portfolio Minister and a Voting Shareholder.

This will put the Minister in a better position to work with rail and ferry operators to improve their operational performance.

It will ensure for example that the Minister has a seat at the table in formulating the Statements of Corporate Intent for the Government's rail and ferry operators.

These Statements which are prepared annually set down the overarching objectives of those operators for the coming year.

The Statements also specify the performance targets and other measures by which the operators' performance will be judged.

There is no general prohibition in the *State Owned Corporations Act* which prevents the Portfolio Minister from being appointed as a Voting Shareholder.

The prohibitions in the *Transport Administration Act* were first introduced in relation to the rail infrastructure corporation and FreightCorp at a time when regulatory control needed to be separated from commercial control.

At the time when the prohibitions were introduced rail access arrangements were still to be put in place and FreightCorp which has since been privatised was operating in a competitive market.

With these reforms now behind us the original reasons for the prohibitions have fallen away. Separation of the regulatory and ownership roles is not required these corporations given that they do not operate in competitive markets.

In the context of the Government's rail and ferries services the community looks to the Government and to the Minister for Transport in particular to ensure that their performance continues to improve.

Repeal of these provisions in the *Transport Administration Act* is therefore appropriate.

I commend the Bill to the house.

**The Hon. MICHAEL GALLACHER** (Leader of the Opposition) [4.20 p.m.]: I lead for the Opposition on the Transport Administration Amendment (Portfolio Minister) Bill 2007. This bill is mainly inconsequential but it addresses issues in relation to the roles, responsibilities and level of accountability of a ministerial portfolio. The bill will remove provisions of the Transport Administration Act 1988 and the State Owned Corporations Act that prohibit the Minister for Transport from being a voting shareholder in Rail Corporation New South Wales, the Transport Infrastructure Development Corporation, the Rail Infrastructure Corporation and Sydney Ferries. Legislation designed to create another level of ministerial accountability is long overdue. The bill will ensure that ministers of the day, and in the present case the Minister for Transport, will not be able to walk away from their responsibilities.

More importantly, while this bill highlights the Government's rhetoric about ensuring that the Minister for Transport has an increased level of responsibility by becoming a shareholder for government corporations, it also highlights the failures of the Government across a raft of transport issues. Despite rhetoric and promises by the Minister, the final result has not come anywhere near to keeping the promises that have been made to a long-suffering public. People who travel to the outer rim of Sydney, for example to the Central Coast, the Illawarra or the Hunter Valley, have been promised year after year that outer suburban trains, which are commonly referred to as the OSCars, will be rolled out. Commuters were told of the imminent delivery of the trains and it was a case of promises continually being made to the public about when the trains would be operational. However, when it comes to transport facilities in this State, there has never been any real commitment by this Government to ensure that deadlines are met.

The most recent debacle was the Millennium trains, or the Mi-lemon trains. It took such a long time to get the technology right. The problem was that the boffins in State Rail and the Government kept interfering in the final design, kept wanting to add features, and kept wanting to make changes. Each time changes were made the delivery date, cost and technology were expanded. Instead of having experts in rail functions involved in the manufacture of the trains, this Government had bureaucrats involved.

Because the train as it was originally designed was incapable of delivering on promises that the Government had made, there was also a measure of political interference to have features added. The Government was pushed into the delivery of the Millennium trains. The trains were originally to be named the Olympian because they were originally promised for delivery prior to the Sydney Olympic Games. When the original delivery date came and went, the Government came up with a kitschy name, the Millennium train. Realising that public pressure was building, the Government then decided to put the Millennium trains onto the tracks—but without the requisite testing to iron out the bugs.

I am sure that all honourable members recall a few years ago when it seemed that not one day went by without a Millennium train breaking down somewhere in the system. Because of the interconnectedness of the State's rail system, that caused mayhem right across the board. We are told that this legislation is all about ensuring that the Government, and the Minister as shareholder, will be more accountable for the performance and operation of the corporations than has been the case in the past and the Minister will not be able to blame the board for problems. All honourable members will recall that as the former Minister for Transport, Michael Costa's great idea was to set up boards for these corporations so that he could step back from responsibility. The corporations became the bureaucrats' problem, not Michael Costa's.

We all know what happened as a result of Michael Costa's approach to public transport in New South Wales. The then Premier worked out fairly quickly that Michael Costa had to be shifted out of the public transport portfolio because he was literally offending 500,000 train passengers a day. He was bored and wanted to spread his wings, so he started to infiltrate the bus system. He did a fantastic job of really upsetting bus users, and just when people thought it was safe to use public transport, he decided to play around with public ferries.

**The Hon. Catherine Cusack:** And the taxis.

**The Hon. MICHAEL GALLACHER:** And the taxis. Virtually no form of public transport in this State was missed. Michael Costa effectively got into the face of absolutely every public transport user, with the result that he had to be moved from the Transport portfolio. When that happened, the cheers of the public were drowned out only by the cheers of Labor members. The loudest cheers of all were those of Michael Costa's Labor colleagues. The OSCars are yet another example of mismanagement and being big on promises but slack on delivery. I must also mention among this list of failures the Tcard. Hundreds of millions of dollars have been invested in the New South Wales Tcard, but we have nothing to show for that investment.

**The Hon. Catherine Cusack:** But they are moving in the right direction.

**The Hon. MICHAEL GALLACHER:** Yes, WorkDirections! We are continually being told that improvements are just around the corner. Questions are being asked about the technology and the delivery of the Tcard project because the project costs are running into hundreds of millions of dollars. We are being told that this bill will ensure greater accountability for the performance and operation of transport corporations. The Government may put in place all the measures it likes, but unless the portfolio Minister drives performance to achieve outcomes, it is all a waste of time. The current Minister for Transport has held the portfolio for some time but is yet to deliver on any of the promises that have been made over the past few years, and the Tcard is but one example.

The Warnervale railway station was promised to be fully operational by 2007 but the site is exactly the same now as it was 20 years ago. Nothing has happened and nothing has changed, despite all the promises and rhetoric leading up to the recent State election. I reiterate the point that this Government is strong on rhetoric and slack on delivery. At the end of the day, it is the voting public who get an absolute gutful, and people just want respite and improvement. Recently the Minister for Transport, John Watkins, correctly described the Government's approach when he said to New South Wales train commuters in relation to overcrowding, "Get used to it." His advice is that commuters should get used to late-running trains, get used to being crammed into rail carriages like sardines and get used to paying top dollar for a service that could only be described as garbage.

Basically the Government's attitude is "kiss this". The Minister for Transport's comments said it all. Commuters have no alternative to public transport because they cannot use their vehicles on congested roads, and drivers sit in their cars and watch the fuel gauge, rather than the speedometer, move. Motorists spend much of their travelling time stationary in parking lots known as the M4 and M5 because they have no alternative. They cannot turn to public transport. Good luck to people from the inner western suburbs who want to catch a bus. People who live in the inner western suburbs of Sydney experience a unique situation.

**The Hon. Penny Sharpe:** When was the last time you caught a bus?

**The Hon. MICHAEL GALLACHER:** The Hon. Penny Sharpe might be surprised to know. Unlike members of the Government, Opposition members do not have chauffeur-driven cars, and we do it tough. Be that as it may, people who live in the west and want to travel to the central business district to work, need to walk west towards Parramatta to be able to catch a bus to Sydney. The reason for that is that they have to keep walking further and further west to a bus stop at which a bus will stop—that is, a bus that is not full, like the

trains, with people crammed to the rafters like sardines. If one lives at Camperdown, for example, and decides to walk to the nearest bus stop, nine buses out of ten will be packed and will pass by. One would have to wait a considerable time for a bus that was not packed to stop. Is that consistency of service? Again, the people of New South Wales are stuck in a situation where, quite simply, they cannot turn to the roads and they cannot turn to the trains. We have heard the spin about cycleways, the Government's only plan—get on a bike and ride. The Government has no plans and no solutions to the transport problems.

Government members talk about OSCars and Tcards, but our trains are dirty and there are still concerns about security and safety on our rail system despite all the promises by the Government that there would be an increased police presence on the rail system. Those promises have not been delivered. It is the same guy who spins the lines now who was spinning the lines two years ago, Minister John Watkins. It is the same story with the same actors. Earlier this week the Minister's attitude when he spoke about the public having to put up with the offer on the table from the Government, the only offer in town, really encapsulated the Government's approach to public transport. We all wish we had an alternative to the State Government's provided services.

**Ms SYLVIA HALE** [4.31 p.m.]: The Greens support the Transport Administration Amendment (Portfolio Minister) Bill 2007, which allows the Minister for Transport to be a voting shareholder of the Rail Corporation New South Wales, the Transport Infrastructure Development Corporation, the Rail Infrastructure Corporation and Sydney Ferries. The bill should allow the Minister the ability to give transport services more direct guidance and it should remove one level of red tape. The bill should give the Minister for Transport the ability to direct those state-owned corporations to adhere to their responsibilities for service provision. Importantly, the bill should give the Minister the responsibility to direct those state-owned corporations to adhere to their industrial responsibilities towards their workers.

In the case of RailCorp it is amazing that the Iemma Government is prepared to campaign under the "Your Rights at Work" banner while at the same time RailCorp's management is running one of the most ruthless anti-worker campaigns seen in rail over the past 30 years. RailCorp is driven by economic imperatives, which have the fingerprints of the Treasurer, and Minister for Infrastructure all over it rather than being service and customer focused. The Iemma Government is prepared to tinker around the edges on transport, but there is still no overarching plan to deliver a sustainable integrated public transport system for Sydney and New South Wales. Where is the 10-year plan for better, more available and more affordable public transport in New South Wales? The Greens thank the Maritime Union of Australia and the Rail, Tram and Bus Union for their input on this bill.

**Reverend the Hon. FRED NILE** [4.33 p.m.]: The Christian Democratic Party supports the Transport Administration Amendment (Portfolio Minister) Bill 2007, which is an administrative bill that tidies up previous provisions that prohibited the portfolio Minister, the Minister for Transport, from being a voting shareholder of the Rail Corporation New South Wales, the Transport Infrastructure Development Corporation, the Rail Infrastructure Corporation or Sydney Ferries. The bill repeals the relevant sections of the Transport Administration Act 1988, which currently prohibit the Minister for Transport from being a voting shareholder, and it allows the Premier to nominate the Minister for Transport as one of the two voting shareholders of the state-owned corporations within the Transport portfolio.

The Premier considers that allowing the Minister for Transport to assume the voting shareholder role will better enable the Minister to work with rail and ferry operators to continue to improve their operational performance. The Christian Democratic Party hopes that that close cooperation will lead to greater efficiencies and a better outcome for the travelling public of New South Wales.

**The Hon. ROBERT BROWN** [4.34 p.m.]: The object of the Transport Administration Amendment (Portfolio Minister) Bill 2007 is to remove provisions in the Transport Administration Act 1988 that prohibit the portfolio Minister, that is the Minister for Transport, from being a voting shareholder of the Rail Corporation New South Wales, the Transport Infrastructure Development Corporation, the Rail Infrastructure Corporation or Sydney Ferries. The outline of its provisions indicates to me that this is a housekeeping bill. I do not see anything in the bill that warrants its not being supported, and therefore I support it.

**The PRESIDENT:** I call the Hon. Roy Smith and remind all members that he is about to make his first speech in this place. I ask that all the customary courtesies be extended.

**The Hon. ROY SMITH** [4.35 p.m.] (Inaugural Speech): I support the Transport Administration Amendment (Portfolio Minister) Bill 2007. As the President has been kind to acknowledge, this is my inaugural

speech in this House, and, of course, there are many people I wish to thank—my friends and colleagues in the Shooters Party, my parliamentary colleague Robert Brown, and John Tingle, the Shooters Party's founder and its first parliamentary representative. Both Robert and I, and the Shooters Party members who follow us, owe much to John, who, in his time in Parliament, earned the respect of members on all sides of the House. In doing so he has made the task for those who come after him so much easier than that which must have confronted him when he was elected in 1995.

Indeed, it is appropriate to point out that 22 May marked the fifteenth anniversary of the founding of the Shooters Party. I take this opportunity to thank everyone who has supported the party in that time, especially the members and supporters whose votes on 24 March this year resulted in my election and the doubling of the party's representation in this place. I owe a very special thanks to my friends and colleagues in the Sporting Shooters Association of Australia [SSAA], particularly my friend and mentor, Bill Shelton, the association's president. Bill has been my friend and mentor since I first joined the association's executive. He and I have spent many hours together planning, and plotting, to do our best to defend the rights of legitimate sports men and women from the incessant attacks of the anti-gun brigade and those who simply do not know better.

Of course, those to whom I owe the most are my family—my wife Pauline, the love of my life and my partner in life's adventures; my mother and father; my sons, Carl and Nicolas, and their wives, Lis and Lisa; and my grandchildren MacKenzie and Jackson. I thank them for their support, their tolerance of my passion for shooting, and especially for their love. My mum and dad were hardworking parents and often put the whims and wants of their two sons before their own needs. I remember my childhood with great fondness. Home was a fibro cottage that Mum and Dad had bought in Regents Park when I was about four years old. It was there that I enjoyed a very happy and uncomplicated childhood with my brother, Michael.

My primary school years were spent at St Peter Chanel at Berala and my high school years were spent at Benedict College at Auburn. I owe much to the nuns, the Marist Brothers and the lay teachers who taught me during those years. My working life commenced in 1972 as an apprenticed electrical fitter-mechanic with Email-Westinghouse. In those days the apprenticeship scheme was an excellent vehicle through which tens of thousands of young men and women gained both theoretical and practical skills. In those days the Australian workforce maintained a skills base that was second to none. Sadly, due to a host of factors over the past few decades, employers have offered only a fraction of the number of apprenticeships previously available, and the skills base of our workforce has suffered accordingly. I am pleased to note, however, that both the Federal and State governments are now working to address that situation.

Pauline and I married in August 1975. We had our first son five years later. Our first home was a small cottage in a new estate at Colyton near St Marys. Our mortgage, modest by today's standards, was around \$25,000, and the interest rate was 5 per cent. Of course, it soon rose to 17 per cent. We managed, but only just. Soon after moving into our new home I decided that working for a boss had too many limitations and that we would be better off working for ourselves. So in 1979 Pauline and I started a small electrical contracting business. Over the next 17 years we experienced the boom and bust nature of the building industry and the trials and tribulations of Australia's small business operators, who employed almost 50 per cent of our workforce.

My years as a small business operator and employer made me acutely aware of the ever-increasing burden of government bureaucracy and the mountains of red tape that small business is forced to bear. But, as anyone who has been self-employed knows, there are both pluses and minuses to being your own boss. For me, one of those pluses was that it enabled me to pursue my passion for shooting and I, along with my family, travelled extensively throughout Australia competing in target shooting competitions with the Sporting Shooters Association of Australia [SSAA].

My passion for hunting and target shooting goes back to my early teens. I purchased my first air rifle when I was 14 years old. A licence was not required back then. When I was 16 years old I travelled into Sydney and purchased my first .22 from Mick Smith's George Street gun shop. I did not need a licence for that either, but I did have to prove that I was 16 years of age. Around that time I also joined Blacktown Rifle Club and purchased a .303. The club shot on the Prospect rifle range and every Saturday I would travel with my rifle to and from Wentworthville by train. Funnily, I cannot remember anyone ever batting an eye.

I was, of course, one of only hundreds of thousands of people who owned firearms, yet I cannot remember any massacres or tragedies on the scale of which we have seen in more recent times. But those days were different. It was common for young boys to have a BB gun or an air rifle. We also had cracker night and real crackers, and nearly every young boy had a pocketknife. It seems to me that in those days kids were given



responsibility a little at a time, and if they did the wrong thing they suffered accordingly. Other kids of my generation and I enjoyed the benefit of learning from our mistakes as we grew up. If we were too slow to learn, the odd smack, a few cuts of the cane, or a timely kick up the bottom from the local cop did our learning capacity wonders.

Nowadays we do not trust our kids with BB guns; they are not responsible enough. We do not trust our kids with crackers; they are not responsible enough. We do not trust our kids with pocketknives; they are not responsible enough. It seems to me that for far too many young kids the first time they are given any real responsibility is when they are handed the keys to the car, often with disastrous results. But I digress. I was speaking of my passion for the shooting sports.

I joined the Sporting Shooters Association of Australia in 1978, hunting when I could and competing on the range when I could not get away to the bush. During that time I also became heavily involved in club administration, which in 1994 led me to the opportunity of employment with the association in the capacity as New South Wales executive officer. It never occurred to me then that working for the SSAA could lead to where I stand today. I well remember an occasion not long after I had commenced working for the SSAA. I was talking to Ted Drane, who, at that time, was the association's national president. I was lamenting my frustration and the lack of progress I was having in my dealings with the police ministry in trying to get it to agree to some sensible amendments to the firearms regulation.

Ted said to me, "Roy, you are much the same as I was when I was younger. You think that, because you know the truth, once you explain the facts to people they will all be happy to agree with you." He said, "Roy, you have a lot to learn." He was right, of course, and I am still learning. I can remember as a kid my grandfather often qualified his statements by saying, "I read it in the paper." If it was in the paper it had to be true. Sadly, the days when we could rely on what we read in our newspapers as being an objective report of the facts are long gone.

These days, media bias is endemic. Sensationalism is what boosts ratings and circulation. Unfortunately, the plain truth is not interesting enough. I am particularly concerned about the practice of some sections of the media unashamedly stirring up public emotion on major issues in an attempt to force the Government to act, hailing themselves as champions of truth and justice when more often their real motivation is circulation, ratings, or simply politics.

Granted, there may be the odd occasion when the government of the day may need some prodding, but more and more often we see emotionally charged media campaigns forcing governments to make rash, politically motivated decisions when society would be far better served by a more calm and rational debate than that which so often takes place on talkback radio, or on the front pages of some newspapers.

Today's gun laws are, of course, a perfect example of legislation born of emotion instead of rational, evidence-based policymaking. The real tragedy of basing government policy and legislation on emotion, ideology or media-driven public opinion is that billions of dollars can be wasted and achieve little or no real benefit, when instead they could have been spent on other areas and achieved some real and lasting benefit. The push for ever tougher gun laws is a case in point. We all want tough gun laws, especially law-abiding gun owners, but what we need are tough gun laws that target criminals, not sports men and women, people on the land, or others with a legitimate need to own firearms.

In recent years both Federal and State governments have wasted billions of dollars on ineffective gun laws that have done little to prevent crime or catch criminals. Instead, they tie up thousands of man hours in bureaucratic red tape, overregulating shooters and shooting clubs, registering BB guns, and counting the number of times target shooters visit shooting ranges. In New South Wales the waste continues at the rate of millions of dollars every year—dollars that would be far better used in employing more front-line police.

Of course, it is not only legitimate firearms owners who are victims of ever-increasing restrictions on their legitimate activities. Today both fresh and saltwater anglers are finding that they too are coming under continuous scrutiny, increasing regulation, and restriction. First, we saw the introduction of compulsory licences for freshwater anglers—the justification being that licence fees are necessary to ensure the maintenance of fish stocks. We have since seen the expansion of the licence regime to include saltwater anglers—the justification being that the licence fees are necessary to ensure the maintenance of fish stocks.

Now we have the introduction of marine parks and conservation areas and anglers are losing much of their most popular fishing spots to no-take zones, again to ensure the maintenance of fish stocks. The

overwhelming majority of anglers, like hunters, are responsible conservationists. We support reasonable regulations but they must be based on sound evidence, not emotion or ideology. There is simply insufficient evidence to show that excluding recreational anglers from no-take zones will have any significant impact on fish stocks.

Shooters originally established the Shooters Party to defend the rights of law-abiding firearms owners and users. But the Shooters Party is not, and has never been, just about guns. The Shooters Party is about defending the rights and freedoms of responsible, law-abiding people—whether they be shooters, anglers, four-wheel drivers or other outdoor enthusiasts—whose rights and freedoms are being unreasonably impeded.

The Shooters Party has a number of important goals it would like to achieve in the next few years. We will be seeking amendments to those aspects of the current firearms legislation that unreasonably restrict legitimate firearm owners but do nothing to enhance public safety. For example, we will be seeking amendments to the requirement by which firearms licence holders must undergo a 28-day cooling-off period for every firearm they wish to acquire. The cooling-off period should apply only to an initial acquisition, not to every subsequent acquisition.

The current requirement does nothing to enhance public safety and is only another layer of bureaucratic red tape that restricts the legitimate activities of already licensed firearm owners. The Shooters Party will also pursue the reintroduction of science-based duck and quail seasons and the expansion of the highly successful Game Council model to include conservation hunting in national parks.

The Shooters Party will also seek to end the unconscionable waste that takes place each year whereby kangaroos culled under the non-commercial tag system administered by the New South Wales Parks and Wildlife Service are left to rot in paddocks and feed the growing numbers of feral animals across New South Wales. Kangaroos must be managed and culling is unavoidable, but hunters must, where practical, be permitted to utilise the meat and skins of animals culled and not be forced to leave culled kangaroos to rot in the field.

Target shooting is a popular and international sport, and we will work towards removing the current difficulties faced by new shooters who wish to try the shooting sports. Our football, cricket and tennis stars commenced their sporting careers at school, and we believe our young shooters should be given the same opportunity in their sport. We will pursue the reintroduction of shooting sports and firearms safety programs into the public schools sports programs. As I mentioned earlier, the Shooters Party is not just about guns. We believe the current marine parks legislation impacts unreasonably on recreational fishing, and we will be urging the Government to review the legislation at the earliest opportunity. Mr President, in conclusion, I thank you and my fellow members for this indulgence this afternoon. It is a tremendous honour to be elected to this place and I look forward to spending the next eight years working with you all.

**The Hon. ERIC ROOZENDAAL** (Minister for Roads, and Minister for Commerce) [4.51 p.m.], in reply: I thank honourable members for their contributions to the debate. Ministers who hold shares in state-owned corporations hold them on trust for the State of New South Wales. The ultimate owner of the corporations is the Government and, through it, the people of New South Wales. Nothing in this bill will change that fundamental fact. The bill will allow Ministers with portfolio responsibilities for Transport to be in the best position possible to work with public transport operators to improve their service delivery, which is the core business of government. I commend the bill to the House.

**Question—That this bill be now read a second time—put and resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

### **Third Reading**

**Motion, by leave, by the Hon. Eric Roozendaal agreed to:**

That this bill be now read a third time.

**Bill read a third time and returned to the Legislative Assembly.**

**ANTI-DISCRIMINATION AMENDMENT (OFFENDER COMPENSATION) BILL 2007****Second Reading**

**The Hon. TONY KELLY** (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [4.53 p.m.], on behalf of the Hon Eric Roozendaal: 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.**

It is proposed to amend the NSW Anti-Discrimination Act 1977 so that compensation awarded to prisoners for acts of discrimination against them by the State, whilst they are incarcerated, is paid to the Victims Compensation Fund.

The amendment will operate to restrict prisoners' access to compensation for breaches of the NSW Anti-Discrimination Act 1977.

While it is incumbent on government agencies to deliver their services in a non-discriminatory way and in conformity with State and Commonwealth anti-discrimination laws, prisoners should not benefit from an award of financial compensation payable by the State for alleged discrimination.

The amending legislation is consistent with provisions in the Civil Liability Act 2002 restricting prisoners' rights to access compensation for injury caused by the negligence of the State. Appropriately, this Bill defines 'offenders in custody' and 'protected defendants' in similar terms to the definitions used in the Civil Liability Act 2002. Under section 26A of this Act, 'protected defendants' are defined to include the crown, a Government department, members of staff of a Government department, a public health organisation within the meaning of the Health Services Act 1997 and members of staff of a public health organisation, any person having public official functions or acting in a public official capacity (whether or not employed as a public official), but only in relation to the exercise of the person's public official functions, and a management company or submanagement company (within the meaning of the Crimes (Administration of Sentences) Act 1999 and members of staff of such a company.

The redirection of compensation monies to the Victims Compensation Fund, to assist in the task of compensating victims of crime, is consistent with the community's expectation that criminals should contribute to the rehabilitation of victims of crime. This redirection of compensation monies will also include any interest that accrues on an amount of damages.

This ought not, however, to be at the expense of the prisoner's other rights. Such rights, as they currently exist under the Anti-Discrimination Act, will be maintained. Remedies other than monetary compensation will continue to be available to prisoners who prove unlawful discrimination by a public sector agency while they are incarcerated. For example, the Tribunal will still be able order the agency to cease the discriminatory conduct and fix the problem or to apologise.

Proposed section 111A(6) of the Bill also allows for the making of regulations to exempt certain classes of prisoners from the operation of the amendments, in appropriate circumstances. Accordingly, it will be possible to exclude certain categories of people from the operation of this amendment where required.

To ensure that the Victims Compensation Fund has the immediate benefit of this proposal, the bill provides that damages awards made by the Tribunal on or after 29 May 2007, (being the date of which notice of motion for the introduction of the Bill was given in Parliament), will be paid to the Victims Compensation Fund instead of the prisoner complainant.

I commend the bill to the House.

**The Hon. JOHN AJAKA** [4.53 p.m.]: The Anti-Discrimination Amendment (Offender Compensation) Bill 2007 seeks to amend the Anti-Discrimination Act 1977 so that compensation awarded to prisoners for acts of discrimination perpetrated against them by the State while they are incarcerated is paid to the Victims Compensation Fund. The bill will restrict prisoners' access to compensation for breaches of the New South Wales Anti-Discrimination Act. The Opposition does not oppose the bill. There is a community expectation that convicted prisoners should not be able to profit from their crimes. This bill seeks to fulfil that community expectation. It is important to note, however, that, whilst prisoners are not able to profit from their crimes, the Government should not be exempt from liability. The bill seeks not to exempt the Government from liability but to direct funds into a Victims Compensation Fund. These funds should be used to contribute to the rehabilitation and compensation of victims of crime. The intent of the Anti-Discrimination Act is to:

... render unlawful racial, sex and other type of discrimination in certain circumstances and to promote equality of opportunity between all persons.

The bill is not contrary to the intent of the Anti-Discrimination Act as it still requires monetary compensation from an offender under the Act. The intent of the bill is that the offender under the Anti-Discrimination Act must still pay compensation and that the compensation will not go to the prisoner complainant but be redirected to the Victims Compensation Fund.

Some may argue that the bill allows prisoners to be discriminated against as a class of persons by not affording them compensation, and that this is a contravention of the spirit of the Anti-Discrimination Act—an Act that, after all, seeks equality of opportunity. I remind those detractors from the bill that we already allow prisoners to be deprived of many rights that are afforded to the rest of society as part of the punitive component of incarceration. Further, the bill will not interfere with other remedies available to prisoners under the Anti-Discrimination Act, such as abatement of discriminatory conduct, resolution of the problem and apology. I also draw the attention of the House to proposed section 111A (6), which allows for certain classes of prisoners to be exempt from the amendment when required. This discretion should be exercised carefully, but it allows for prisoners to receive monetary compensation in special circumstances when it is deemed appropriate.

As I informed members on a previous occasion, I am well aware of the horrors of discrimination and I am committed to fighting prejudice and any form of discrimination in the community. In this case, however, convicted criminals have sacrificed many of their rights because of the wrongs they have done in the community. There is a community expectation that prisoners should be made to recompense their victims. This is an important step in the process of rehabilitating a prisoner and bringing some form of assistance and relief to victims of crime. I am pleased to reiterate that the Opposition does not oppose the bill.

**Ms SYLVIA HALE** [4.57 p.m.]: The Greens oppose the bill. We have many concerns about it. The bill attempts to relieve the Government of any responsibility for ensuring its duty of care to those incarcerated by the State. It chooses to ignore a set of principles that the Government has claimed to support over the years and that were embodied in the anti-discrimination legislation that was introduced by the Australian Labor Party in 1977. Perhaps worse, the bill is straight out of the Government's law and order stable, and panders to the worst aspects of populist perceptions about what should be justice in this State. We could call it policy via the Alan Jones school of populism. The gist of the problem was spelled out by the Parliamentary Secretary Assisting the Attorney General when introducing the bill in another place. In the opening paragraph of his speech he said:

While it is incumbent on government agencies to deliver their services in a non-discriminatory way and in conformity with State and Commonwealth anti-discrimination laws, prisoners should not benefit from an award of financial compensation payable by the State for alleged discrimination.

But the crux of the issue, as even the member for Miranda acknowledged, is surely that:

... it is incumbent on government agencies to deliver their services in a non-discriminatory way and in conformity with State and Commonwealth anti-discrimination laws ...

So why is this bill before us? It refers to alleged discrimination. Yet if the provision is found by a legally constituted body to be more than alleged discrimination, then it is discrimination. So if it is discrimination, why should the Government not apply to prisoners the same law and remedies available to other citizens? Granting an offender recompense when it is found he or she has been caused suffering because of discrimination on one of the grounds specified in the Act is a different matter from someone profiting from crime. This is not the same as O. J. Simpson writing a best seller or Chopper Read's series of books about his revolting crimes. It is about an offender in custody being unfairly discriminated against on the basis of race, sex, transgender status, marital status, homosexuality, age, disability or HIV status.

When someone takes such a matter to the tribunal, section 108 of the Anti-Discrimination Act 1977 spells out what kind of orders the tribunal can make, and it has several options. The tribunal may dismiss the complaint in whole or in part, or find the complaint substantiated in whole or in part. If the tribunal finds the complaint substantiated in whole or in part, it may make a range of findings relating to damages or ordering the respondent to perform any reasonable act or course of conduct to redress any loss or damage, as well as publish an apology. So awarding payment is not the only option. And so, if the tribunal finds that someone in prison is the victim of unlawful discrimination, then that prisoner should be given a damages payment, if this is the order the tribunal makes after hearing the evidence and considering the options available to the tribunal. It should be remembered that the tribunal also has the option of declining to take any further action in the matter.

When one asks why the Government has now found it expedient to bring in such legislation so quickly, it seems that the obvious answer is that the shock-jocks have won out again. Indeed, it was Nicholas Cowdery,

QC—the current Director of Public Prosecutions in New South Wales—who, in an address to the Australian Academy of Forensic Sciences in November 2001 when he was President of the International Association of Prosecutors, alerted us to the origins of much government policy. In his paper "Whose Sentences: the Judges', the Public's or Alan Jones'?" he noted:

In this State the government's media advisers monitor Alan Jones' early morning program and are required to respond to any problem raised before he goes off air (I believe) at 9.00 am.

This legislation appears to be one such response. Changing the law to require any compensation payments to be diverted to the Victims Compensation Fund, rather than to be paid to the individual who might have won such a case, is a denial of natural justice to the prisoner. If a prisoner is serving a jail sentence, he or she is repaying a debt to society. Why does this Government need to take away his or her rights to recourse in relation to something that is not related to the original crime, but rather is something that he or she has experienced while in the custody of the state? Here the Government is pandering to the worst aspects of populism. The Government is going with the lowest common denominator in its ongoing attack on the administration of justice in this State.

In introducing this legislation, it is also clear that what is being proposed, in effect, is that one simply suspends, or ignores, the principles behind the Anti-Discrimination Act and removes its universality. Yet surely this undermines the point of the Act. Indeed, when Premier Neville Wran, QC, introduced the Anti-Discrimination Act in 1977, he said in his second reading speech:

... all human beings are born equal, have a right to be treated with equal dignity, and a right to expect equal treatment in society.

He went on to say:

... the [Anti-Discrimination] Bill is an attempt, as far as legislation can, to end intolerance, prejudice and discrimination in our community.

I wonder what his views would be on this bill? Perhaps we should ask Mr Wran. And surely not all Labor people share the narrow poll-driven, shock-jock policy making of this current Labor Government, which thinks it is too hard to explain complex issues and basic fairness to the community, preferring to adopt a simplistic and emotive approach to policy.

In closing, I point out that the Attorney-General seems to at least acknowledge that it is incumbent on government agencies to deliver their services in a non-discriminatory way and in conformity with State and Commonwealth anti-discrimination laws. But if that were the reality, then all the remedies currently available in law through the tribunal should be available to all people, including prisoners who have already been found guilty and have been incarcerated for committing a crime. Two wrongs do not make a right. We cannot withhold justice on another matter on the basis of what someone has done previously, especially if they are already being punished for what they did on that earlier occasion. The prisoner is not profiting from the crime. It is not acceptable to discriminate against prisoners. The Greens ask members to oppose this bill.

**Debate adjourned on motion by the Hon. Greg Donnelly and set down as an order of the day for a future day.**

## ADJOURNMENT

**The Hon. TONY KELLY** (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [5.06 p.m.]: I move:

That this House do now adjourn.

## FOX AND RABBIT POPULATIONS

**The Hon. AMANDA FAZIO** [5.06 p.m.]: The matter I raise this evening—and I have pondered on it quite often—will probably strike a chord with members of the Shooters Party. When I was a young woman living at Cabramatta I had to get up early to catch the train into the city to go to work. Many young women in similar circumstances saved up their money and bought themselves an overcoat. Very frequently they were rabbit fur coats or, if the women really worked and saved hard, they may have been leather with a fox fur trim or red fox fur. However, because of pressures brought to bear by animal welfare supporters, the wearing of fur has become so socially unacceptable that very few people these days are able to buy a new fur coat in Sydney. In

fact, the number of fur shops has dramatically declined to the extent that there are virtually no specialist fur shops left in Sydney.

As a result, another issue has arisen for the so-called animal welfare lobby. Because shooters have not been shooting rabbits and foxes to get money for their pelts, the rabbit and fox populations have exploded. The increase in the fox population has had a dramatic effect on native animals in Australia. Farmers advise that foxes take their smaller farm animals and whatever is in the henhouse. Foxes attack their cats and kittens and sometimes their young lambs. This is a matter of disquiet not only for farmers but also for anyone concerned about native fauna because foxes are one of the main predators of native fauna in this country.

I noted that the Hon. Roy Smith said in his inaugural speech this evening he would like the operations of the Game Council expanded to allow conservation hunting in not only State forests but also national parks. I expect that will be a very interesting debate in this House. I can understand the principles and the concerns that some have on this issue because the same people who complain about the wearing of fur ignore the fact that so many of the products that used to be sold by furriers came from farmed animals. But the same people who complain about these issues have no problem at all about wearing leather shoes or leather jackets, or carrying leather handbags or leather briefcases. Fur is no more than a hide from which the fur has not been removed. The hypocrisy of those people has been shown to some extent in this debate. Yet these same people, who latch onto an issue and do not think through the consequences, can have a major adverse impact on our country. It is fair to say that when this country had a decent fur trade we had nothing like an explosion in the fox and rabbit populations.

**The Hon. Robert Brown:** And the use of 1080.

**The Hon. AMANDA FAZIO:** And restrictions in baiting practices. We must do something to control feral animals. Shooting will not always be the answer. In some cases, their control has to be through other programs that are put in place. But we have to recognise that from something as simple as the actions of a few anti-fur activists in the late sixties and early seventies the wearing of fur became totally unacceptable, and as a consequence we have a problem that is impacting adversely on endangered species. We need to stop and think things through. Though we sit here each day on our leather benches, I have not heard calls from those opposed to the fur trade to have their benches upholstered in vinyl. Then again, they probably would not like vinyl because it might have some petrochemical base, and that would not be acceptable either. There is a level of hypocrisy surrounding this issue. In Europe it is common to see people wearing fur. Why? Because the climatic conditions there make that necessary. We should rethink prohibitions here and be more sensible. [*Time expired.*]

## BILL OF RIGHTS

**The Hon. DAVID CLARKE** [5.11 p.m.]: Australia is a blessed nation for many reasons. We have had a peaceful history free of internal conflict and war. We are rich in resources. We have a high level of economic prosperity. And, above all, we are a democratic nation where there is a tradition of respect for human rights and a respect for the freedom of the individual. We have universal suffrage, freedom of speech, freedom of thought, democratically elected political representation, an independent judiciary and a separation of powers that ensures power cannot be usurped and monopolised by one body or individual. Clearly, we take seriously these words of Lord Acton spoken in 1887:

Power corrupts and absolute power corrupts absolutely.

Any impartial observer would be justified in believing that as far as freedom and the protection of human rights are concerned, Australia would rank at the very top of the list. Now it is true that from time to time we are confronted by some United Nations committee, supposedly established to safeguard human rights in the world, casting its eyes over Australia, whingeing and whining and carping about our violation of human rights in some area or another. Fortunately, such bodies are dismissed by rational people with the contempt they deserve, especially when they are top-heavy with representatives from nations such as Cuba, Libya and Somalia—hardly paragons of human rights. However, for some time now there has been a growing agitation from a lobby seeking the introduction of an Australian bill of rights and also a bill of rights in New South Wales. Their number include the usual proselytisers from the Left as well as the occasional activist judge who salivates at the prospect of having the power to write laws rather than just interpret and apply them as determined by Parliament.

The truth is that we do not need an Australian bill of rights, nor do we need a bill of rights here in New South Wales. Our human rights and freedoms are more adequately protected already through the common law,

our nation's culture of understanding and through existing legislation, than any protection that might be afforded by a bill of rights. The former Soviet Union had enshrined protection of human rights, but the truth is that there were no human rights in that Soviet empire. Communist China has a bill of rights, but who would suggest that there are genuine human rights in that country? Likewise, Saddam Hussein's Iraqi, Mugabe's Zimbabwe, and countries such as Uzbekistan and Communist Albania all adopted a bill of rights, but the reality was that human rights in those countries were or are a farce, a fraud, or are non-existent.

The adoption of a New South Wales bill of rights would serve to take lawmaking power from our democratically elected Parliament and hand that power over to unelected judges, and that is because their power to interpret such a document is, in practical terms, the power to make new law. To hand over to judges decision making on policy issues would be an undermining of our democratic system. Would I like my human rights to be determined by someone like the late High Court judge Lionel Murphy? The answer is no, I would not.

Another problem with seeking to enshrine in one document our rights and freedoms is the difficulty in drafting these rights and freedoms in a specific and clear-cut way. A whole new industry would arise where lawyers would clog up our courts with challenges to the outer parameters of such a bill. There would also arise the problem of rights conflicting with other rights, such as laws against pornography being challenged as an infringement of a right to read whatever we wish. In Victoria there is a bill of rights guaranteeing freedom of speech that conflicts with a right to protection from religious vilification contained in antidiscrimination law.

What may be seen today as a human right may not be seen in the same light by succeeding generations. A bill of rights would freeze rights to a particular point of time. A bill of rights would unduly stifle the independence of the judiciary. It would lessen respect for judges because it would politicise their position; it would give them a power that they were never meant to have. But, above all, why would we want to change a system that has worked so well without a bill of rights?

There is much to be said for the adage "If it ain't broke, don't fix it." That is why respected leaders on both sides of politics, including Prime Minister John Howard and former New South Wales Premier Bob Carr have strongly opposed sliding down the "bill of rights slippery slope". It is also interesting to note that whilst former New South Wales Attorney General Bob Debus, from the Australian Labor Party's Left faction, supported the idea of a bill of rights, his more commonsense and thoughtful successor, John Hatzistergos, has expressed his opposition to such a bill.

For the sake of the people of New South Wales I hope that the time will never come when we see a bill of rights in this State. I hope that the sensible people on both sides of politics will do all in their power to resist such moves because, if such a move ever succeeds, it will see the undermining of our democratic values and the erosion of our freedoms and human rights.

### **CORAMBA HYDROCARBON CONTAMINATION**

**Ms SYLVIA HALE** [5.16 p.m.]: I wish to speak about the hydrocarbon contamination at Coramba, a small village about 25 kilometres west of Coffs Harbour. Due to the spillage of 3,000 litres of petrol in 2002 from an underground tank at the former Shell service station in Coramba, the groundwater and river are contaminated, so much so that the water intake from the Orara River, which supplied the town's water, was closed off after Coramba resident Peter Attwill reported a strong odour of petrol in 2002. Since that time, testing to determine the extent of the contamination and remediation work has been inadequate.

I visited Coramba in February this year with Coffs Harbour Greens member Rodney Degens. We met with a group of townspeople, who outlined their concerns and told us what had occurred since the spill. Peter Attwill, whose property is adjacent to the river, pulled up some water from the test bore at the back of his garden, which slopes down to the river. I was astonished at how strong the odour of petrol was in that groundwater. Now that Parliament has resumed I am following up on the matter. I have today put a series of questions on notice to the Minister for Climate Change, Environment and Water and to the Minister for Health.

There are a number of concerns about how the contamination at Coramba has been handled. For a start, when a citizen reports pollution, as Peter Attwill did, you would expect the government agency, in this case the Environment Protection Authority, to investigate and remediate, or ensure that the polluter who caused the pollution is liable to pay for the investigation and remediation. Not so. In this case, instead of the Government seeking money from the polluter—Shell and the operator of the service station on Gale Street—the Environmental Protection Authority, utilising an innocent victim scheme, asked Mr Attwill to virtually take over

the investigation and remediation process. Just why the Government placed this burden on his shoulders is still unclear to me and to residents of Coramba. Mr Attwill has done his best, but the Environmental Trust simply did not give him enough money for the various consultants he hired to do a thorough job of investigating the extent of the hydrocarbon plume. To date, the western side of the hill behind the service station has not been tested. It is inexplicable to me why a series of test bores in a radial pattern around the service station were not sunk to determine the exact extent of the plume.

The residents of Coramba are involved in a committee with the Department of Environment and Climate Change [DECC] and the Coffs Harbour City Council, but they have shouldered so much of the burden already. What of the polluter? The situation in Coramba is unacceptable. Shell must take responsibility. The partial clean-up that has taken place so far is completely inadequate, but local families are stuck in Coramba because it is extremely difficult to sell a house in a town so severely affected by hydrocarbon contamination. Shell's response has been completely inadequate. Residents should not bear the costs of cleaning up a major leak from a Shell petrol station. Shell makes billions of dollars a year from distributing petrol. It has a responsibility to make good any damage it causes to communities arising from the distribution of its petrol products. Shell's record of corporate responsibility is not good. This is the company that poisoned the land of the Ogoni people in Nigeria. Members will recall that the Nigerian Government hanged nine environmental activists in 1995 for speaking out against exploitation by Royal Dutch/Shell.

Members will also recall that Shell was intending to dump the Brent Spar oil rig platform in the North Sea until Greenpeace activists intervened and occupied it. Shell was forced to break up the rig and take it back to land by ferry. Shell is not new to spillages. Some 150 tons of thick Venezuelan crude leaked from a Shell pipeline into the River Mersey in the United Kingdom. The incident was made worse because Shell, against the warnings of local police and councillors, flushed the pipeline with lighter crude and water to stop oil from solidifying and blocking the pipe. The New South Wales Government should take immediate steps to call Shell to account. The clean-up program should include a fair acquisition program for residents wishing to sell their properties and leave the area.

#### CENTRAL COAST POLICING

**The Hon. MICHAEL GALLACHER** (Leader of the Opposition) [5.21 p.m.]: Following a meeting of my comrades in the Police Association yesterday in Charlestown I place on record my concerns about the lack of support for members of the NSW Police Force in that area. It is extremely important for people to realise that Labor heartlands—Lake Macquarie, the lower Hunter and as far north as Neronda woods near Bulahdelah—are in dire need of additional police resources. Their screams are falling on deaf ears. Yesterday the Minister for Police was given 28 days to resolve the matter before my comrades in the Police Association consider taking industrial action. We do not want industrial action because, at the end of the day, victims of crime in the community become victims again when police take industrial action. The only reason police are at this point is that no-one is listening to them.

Honourable members might recall that a week or two ago I referred to a leaked report from the NSW Police Force on policing in Lake Macquarie. One of the interesting anecdotes is that the ratio for detectives in the area is 1:1,215 people, giving them one of the highest workloads in New South Wales. The homicide rate and the sexual assault rate in the area are absolutely shocking. That is not to say that Lake Macquarie and the surrounding area are rife with crime, but the statistics speak for themselves. Police want to become more involved in investigations and do something about it. Lake Macquarie has 15 detectives, Lake Illawarra has 24, Cabramatta has 24 and Bankstown has 30. All these local area commands are comparable. Resources simply are not available for Lake Macquarie. The leaked report finished with a commitment by Deputy Commissioner Andrew Scipione, the chairman of the criminal investigative detectives advisory panel, that he was intent on ensuring not just that sufficient investigators were in place but also that the criminal investigation profession was supported and its practitioners recognised for their excellent work.

The frightening thing is that the report was first released in December 2005. The report, which was handed to superior officers at the end of April 2007, says, "There are currently a number of operational detectives in the lower Hunter who are either taking medication or receiving counselling in relation to work-related illnesses. Morale is extremely poor, with staff reporting a general feeling of malaise in relation to the workplace. Continuing to ignore the ongoing pattern of work-related illness involving lower Hunter detectives could only be described as gross mismanagement." The report further states, "It is abundantly clear that staff welfare and service to the community are not a consideration." The report goes on to say, "Lower Hunter is currently ranked No. 1 in the State for crime activity for break and enter offences, No. 2 for stealing. The command has the



highest reported sexual assaults in New South Wales. These crimes impact on every overworked and under resourced detectives office."

The report, a call for help, was released in 2005. It is now 2007. But what does the Minister say? He pleads for 28 days to produce a plan. The Government's Charter of Budget Honesty, which was tabled on 12 February 2007, outlines what it intended to do for the people of New South Wales. The Government crows about the charter's importance time and again. Yet in the fine print it refers to providing an extra 750 police for New South Wales. The charter says this about detectives, "Detectives will be increased—123 in 2010-11 and 150 in 2011-12." That is the first and only mention of additional police resources for criminal investigation since the election campaign. What, in heaven's name, will the Minister do in 28 days when the Police Force has had an absolute gutful of being ignored, the community is experiencing high sexual assault rates, break and enters, steal motor vehicles and murder?

Those opposite are doing absolutely nothing, yet they are the ones who purport to represent the workers in New South Wales. It is up to the Police Association to make these types of reports public. Those opposite should hang their heads in shame because of the way they abused the police in the lead-up to the election campaign. At the end of the day it is people in the community who will become the victims of their ignorance and their neglect. It is the people who currently live in Lake Macquarie who are putting their hands up for help. Those opposite would not have the faintest idea what is going on. *[Time expired.]*

### NATIONAL DAY OF THANKSGIVING

**Reverend the Hon. Dr GORDON MOYES** [5.26 p.m.]: As members may know, Saturday 26 May was the National Day of Thanksgiving. This was an important day because Australians were called on to think about, and give thanks for, people who make their lives special, people such as those involved in the aforementioned Police Force, the Fire Brigades, the Rural Fire Brigades and others. The two words "thank you" can be some of the most neglected words in our daily lives. But their power and effect on the lives of those we thank should never be underestimated. Last weekend I had the privilege of being invited to speak at various National Day of Thanksgiving rallies in the township of Moree. I was greatly honoured to speak to many different audiences—from community leaders to indigenous leaders, church pastors, business people and many other citizens.

It was wonderful to join hands in saying "thank you" to the many people who make up our social fabric. More than 2,000 people attended the six public meetings I addressed. One of the most memorable gatherings was the one organised for Sunday morning 27 May. It was also Pentecost Sunday, Christian Unity Sunday and the culmination of 24 hours of prayer for one week by the Moree community. But, most important, it was the fortieth anniversary of the 1967 referendum—one of the most important days for modern indigenous people—and the fifteenth anniversary of the Mabo decision. The gathering paid homage to a very special event 40 years ago, the date when the 1967 Federal referendum was held. Members will know that the 1967 Federal referendum was aimed at removing sections in the Australian Constitution that discriminated against indigenous Australians.

The Constitution gave the Commonwealth the power to make laws on behalf of Aboriginal people and, consequently, their citizenship in their country. Only eight out of 44 attempts to amend the Constitution have been successful, but in that referendum 90.7 per cent of voters voted yes. The change was embraced, and it was long overdue. Mr Kevin Humphries, the newly elected member of the Legislative Assembly for The Nationals, spoke at a ceremony in Kirkby Park. People at the gathering then walked together to the Moree artesian spa bath. Having arrived at the site of the baths, Ms Edna Craigie gave the Welcome to Country. Mr John Tranby, the Mayor of Moree, Mr Lyall Munro a well-known spokesperson for the indigenous community, and I then addressed the audience. One minute's silence was dedicated to commemorate the efforts of those who brought about the referendum. Coincidentally, on that day in that place, it was also the forty-second anniversary of the freedom riders who, led by the late Charlie Perkins, rode a bus to Moree, confronted the council and integrated the pool.

While the referendum brought about much symbolic change in our nation, a large gap still exists between the lives of indigenous Australians and the lives of their fellow Australians. Aboriginal and Torres Strait Islander peoples have the lowest scores on almost every key social and economic indicator—and in some instances this gap is widening. Australians for Native Title and Reconciliation have reported some devastating facts indicating the vast chasm between indigenous Australians and their fellow Australians. For example, life expectancy of an indigenous child born today is 17 years lower than for the rest of the population; 45 per cent of

indigenous men are dead by the age of 45; and 34 per cent of indigenous women do not reach even that age. Indigenous Australians also have the highest rates of preventable disease.

The percentage of indigenous students who meet minimum national benchmarks for reading, writing and numeracy is less than for any other students. These are Third World figures which ought not to exist in a country such as Australia. What can be done to remedy this situation? All Australians must commit themselves to removing any barriers, real or perceived, between themselves and their fellow Australians. This must be done in an attitude of thankfulness, recognising that we are now all part of one great nation. We must work together to ensure real change for indigenous Australians at every level.

One moving moment that will probably stay with me for the rest of my life was when I led the march as the nominal dignitary behind the Aboriginal flag and spoke to an elderly auntie about when 42 years ago her children were at the Moree Secondary College. As Aborigines, the children were not allowed into the pool to try out for the school's swimming team—Aborigines were not permitted to go into the water—but when the school participated in the inter-school swimming competition her children were not even allowed to watch from the stands. There is still much to achieve in Moree, as evidenced by the boarded-up windows of the shops and the 28 plate glass windows that have been shattered in drive-by shootings. We must remain committed to improving conditions in housing, health care and education. [*Time expired.*]

### DEATH OF MR ROY "FARDI" MUNDINE

**The Hon. LYNDIA VOLTZ** [5.31 p.m.]: On Wednesday 23 May I attended the funeral of Roy "Fardi" Mundine, who was a much-loved and highly respected Bundjalung man. I take this opportunity to pay my respects to him in this House. Roy was born at Baryulgil Square on the Clarence River and was the seventh son of seven sons and five daughters. Roy is a direct descendant of the traditional owners and custodians, King Derry of Casino, Dick Donnelly of Malara and Harry Mundine of Tabulam. Roy spent his life working hard and fighting for justice and reconciliation for Aboriginal people. The Baryulgil community was devastated by the effects of asbestos mining.

Roy was the only male sibling of his family not to work in the Baryulgil asbestos mine, which operated from 1944 to 1976. The families of Baryulgil people have had the heartbreaking task of watching their loved ones die—not just the generation of those who worked in the mines but others who lived in the community, including the children who are now showing signs of asbestos exposure. All of Roy's six brothers who worked in the mines died between the ages of 42 and their early fifties. Of the seven brothers, Roy was the only one to live until his eighties. It is difficult to express the devastation that the asbestos mine caused at Baryulgil: it left Baryulgil people sick and the land and water supply polluted. To add insult to injury, when James Hardie first announced the Special Purpose Fund for compensation for those suffering the effects of asbestos exposure the Baryulgil community was not included.

It is no surprise that Roy always had fire in the belly to fight injustice and further the causes of equality and reconciliation for Aboriginal people. Roy assisted in construction of the Darwin to Alice Springs road, sitting on top of the grader and watching for Japanese fighter planes. He applied for and received an exemption certificate which made him exempt from laws applying to Aborigines so that he could continue to work and drink at the pub with his workmates. Roy carried his "dog licence", as he called it, every day of his life until he died. He did that because of his arrest in Coffs Harbour for being out after 5.00 p.m. without his papers. The police would not believe that he had been returning from work and called him a liar.

Eventually the police sergeant, who was determined to prove Roy wrong, went to get the job supervisor. Fortunately, the supervisor confirmed Roy's story and he was released. While many others burnt their exemption papers in protest in the lead-up to the 1967 referendum, Roy kept his with him as a constant reminder to those who failed to comprehend the injustice his people suffered. Roy is one of the early leaders in the fight to achieve greater equity for the Aboriginal people. He joined the Australian Workers Union and fought hard, with the union, for wages for Aboriginal people. On his early jobs he was paid only an Aboriginal allowance, not a wage. It was the work of Roy and others that paved the way for Aborigines to receive an equitable wage.

Roy worked 16 hours a day, seven days a week, but no bank would give a blackfella a loan, so in the 1950s Roy and his wife, Olive, whom Roy called Dolly, went to a moneylender, who charged him 13 per cent interest for a home loan—twice what any whitefellas were paying. He ensured that all his children received a good education, not just at school but also in politics. His children grew up reading the *Workers News* as their

daily paper. Roy instilled in them a legacy to continue to have fire in the belly and to continue to advocate for change to create a better life for Aboriginal people in Australia. His 11 children include economists, teachers, union organisers, Federal Council of Aborigines and Torres Strait Islander activists, soldiers, bankers and the national president of the Labor Party.

Roy took his children to rallies. They were all part of the movement leading up to the 1967 referendum. He always instilled into his children their responsibility to ensure a fair go for all Aboriginals. He wished to see greater representation of the Aboriginal people, particularly in the Federal Parliament, and always encouraged his children to take up public office. Roy left a tremendous legacy through often difficult times, and he will be sadly missed. I extend my condolences to his family.

### INAUGURAL SPEECH OF DR JOHN KAYE

**The PRESIDENT:** Order! I call Dr John Kaye. I remind all honourable members and those who are present in the gallery that it is customary to hear a member's first speech in silence. I ask all members and people in the gallery to extend that courtesy to Dr Kaye this evening.

**Dr JOHN KAYE** [5.36 p.m.] (Inaugural Speech): As a matter of protocol, and also as a mark of respect, I acknowledge the Gadigal people of the Eora nation, the traditional owners of the land on which this Parliament sits. I pay my respects to the elders, past and present. I also pay my respects to those who, 40 years ago, struggled for and achieved constitutional recognition for the Aboriginal and Torres Strait Islander people and their rights to at least be counted as part of the census. Their success sits proudly in the great Australian history of struggle—a history of social justice activists, unionists, environmentalists and a stirrers, people who created a powerful tradition of taking the notion that it does not have to be this way and translating it into action. That tradition even to this day says that working people deserve a fair share of this nation's wealth, that corporations should not be allowed to ravage our environment, and that economic disadvantage should neither be punished by impoverishment nor allowed to become an inherited condition.

Emblematic of the men and women who created that tradition is Jack Munday. His vision forged new connections between creating a more just and equitable society and protecting the environment. His work gave name and direction to a movement that grew from green bans to the Greens party. It is this tradition that those great people created that the Greens are today committed to making a living reality, both in this Parliament and on the streets.

Now, more than ever before, we need that tradition. For the first time in human history the tragedy of the commons—the overexploitation of that which is publicly held—now threatens the very existence of civilisation. We are in the first decade of the greenhouse century. For at least the next 100 years, if not longer, every decision, every choice and every consequence will be tempered by our impact on the climate, and its impact on us. We cannot duck this reality with the blind faith that we will be rescued by some yet-to-be-proven technology, such as so-called clean coal or supposedly safe nuclear power. They simply may never work. Even if they do, they will be available far too late to avoid disastrous consequences for the climate.

Pretending that we do not have a problem might well help the coal corporations to continue to make massive profits. Making token gestures to renewable energy while continuing with business as usual might help big parties win elections, but there is now only one way that we can respect our obligations to the future and that is to recognise that the era of carbon-based fuel dependency sooner or later must come to an end.

This State faces two distinct choices: we can either work together and prepare for a future that takes us beyond fossil fuels, or we can put our heads in the sand and hope that something will turn up. If we ignore the warnings we are risking economic and environmental devastation. It is highly likely that some time in the next 15 years other countries will say to Australia, "We do not want your coal any more." While Australia has been concentrating on developing ever cheaper and more efficient ways to extract coal, other countries have been putting their productive efforts into developing post-carbon technologies such as renewables and energy efficiency.

Worse still, at the time the international community is bound to turn to Australia and say, "By the way, you can no longer continue to be the world's leading greenhouse polluters. You have to reduce your per capita emissions to world standards." At that time Australia will hit a brick wall, economically and environmentally. We will be backed into a dead end by our lack of foresight and our refusal to face the realities of the climate contributions of fossil fuels. When that happens the current year 7 students will have just begun their adult lives, only to be confronted by an economy devastated by the need to respond quickly to the effects of greenhouse gas emissions, and a planet that is in ruins. The Greens believe that we can offer those young adults an alternative future.

If we tackle the root causes of greenhouse gas emissions head on by winding back the State's economic and technical dependency on coal, and if we plan for a post-carbon future rather than having it thrust on us, we can make good choices. We can create a vibrant renewable energy industry, bringing with it quality employment, a reliable electricity supply and a good measure of prosperity. However, that can happen only if we start now—by rejecting new coal-fired power stations and new coalmines, by insisting on world-leading energy efficiency standards and by pushing the envelope on what we can achieve with renewable energy.

We Greens tell this same narrative over and over; it inspires fear and it inspires optimism, but mostly it is designed to inspire action. It also contains many important political lessons. The message is important, because reducing greenhouse gas emissions to sustainable levels is not the only imperative of this, the greenhouse century.

Somehow we are going to have to learn to survive the end of the availability of cheap and plentiful liquid fuels as our petroleum supplies will inevitably run out.

We must reverse the trends towards greater social, ethnic and economic divisions not only in Australia but globally. We have to undo the growth in inequality of economic outcomes. We have to stop the headlong rush to extinction that faces so many species on this wonderful little planet. And to hold it all together we need a healthy democracy that withstands the social stresses that will be brought on by a changing climate and an ageing population.

The first lesson is the need for evidence-based reasoning that rejects prejudice and sectional interest. Reality is closing in on us fast and we need to deal with it on its terms. We have to surrender the luxury of allowing prejudice, greed and ignorance to infect debates and decision making, not just within this Parliament but throughout society.

Those prejudices seek to undo the benefits of the Enlightenment. We cannot listen to those who say that their religious beliefs justify vilification of gays and lesbians or people of different religions or ethnic backgrounds. Neither should we take seriously those who, either in ignorance or wilfully, misconstrue the scientific process and findings on climate change to say that we do not need to act to reduce emissions. Let us be completely clear about this. Climate change science is not a conspiracy of self-interested scientists. When scientists say, "There is strong evidence that increasing carbon dioxide levels will lead to dangerous climate change" it is not an invitation to scepticism but an honest expression of the openness of the scientific process to admit new evidence.

The second lesson is the need to reinvent our belief in the concept of "public". As individuals none of us has the capacity to meet these challenges successfully on our own, but they are soluble only if we reinvigorate the public institutions that allow us to work together collectively for the common good. Those challenges require collective solutions, which cannot be produced by corporate boardrooms, markets, consumer choice and greed acting alone.

Our great public school system and TAFE colleges knock some of the rough edges off socioeconomic disadvantage and create a celebration of diversity. More importantly, they are central to a culturally, economically and politically successful society that can innovate and thrive in the greenhouse century.

The public ownership of utilities such as water, electricity and transport creates the possibility that they can respond to community needs, including reducing greenhouse gas emissions. Privatised electricity or water retailers are shackled to the need to maximise profit. They can never work in partnership with energy and water consumers to reduce demand in a way that a well-managed and well-led public owned utility can.

But the Greens' vision of public goes beyond education, utilities and services such as transport, health and broadcasting. The Greens' vision includes the belief that as a community we have a collective right to determine our common future. That is why we have so vigorously opposed John Howard's WorkChoices legislation that seeks to destroy unions and leave all workers isolated and at the mercy of their employer.

And that is why the Greens continue to push for a State industry policy, a policy that says it is our right as a society to have an opinion on what should be manufactured and where it should be manufactured. In this way we can collectively reverse the economic decline of small rural communities. We can ensure that Australia becomes a world leader in renewable energy and energy efficiency. That will secure a high employment future for this State based on satisfying our needs and playing into a burgeoning export market.

Yet all of these ideas of the public are under attack—from the fundamentalism that regulation is always less effective than market forces; from the self-serving notion that cooperation has been superseded by greed; and from the entirely false ideology that public is inferior to private.

Nowhere is that more obvious and more damaging than in education. I am yet to meet a politician who will openly say that he or she wants to destroy the public education system and replace it with a system of private schools. But that is exactly what every politician does when he or she sits back and allows the funding of private schools to increase dramatically at the expense of public education: they are handing over the education future of this country to the ideals of consumer choice and market. They are selling out on the idea that we collectively have responsibility for the future of our children. If there is one achievement that I would like to meet on behalf of the Greens in this Chamber over the next eight years it would be to keep alive the debate over the funding of private schools and the idea that public education must be the first and foremost responsibility of every level of government, as it is written in the Education Act.

It is not only the idea of public that we need to reinvent but politics itself. We are ill-served in this greenhouse century by a political culture that appears to most people to be little more than a game of football between two sides, scoring points at each other's expense to win the premiership and govern for four years. The challenges we face are too complex to be resolved by simple right and wrong answers. Added to that mix is the malign influence of political donations from developers, the tobacco and alcohol industries, pharmaceutical companies, defence contractors, banks and other corporations seeking to buy legislative outcomes that sacrifice the public interest in their quest to maximise their profits.

For the Greens, politics can be so much more, and it really has to be so much more if we are to address those challenges. Proportional representation is an important first step so that we bring to each debate a real reflection of the range of opinions in our society—as we saw this evening in the adjournment debate. It is only by bringing a range of opinions on to one table that we can produce answers that are closer to forming a complete social consensus.

But politics is much more than just parliament; it is about how people think of themselves and their community and the possibilities for making life much better. Creating a real democracy is about engaging everyone in determining the future. It is about making sure that wealth and cultural resources do not buy power over those who have much less of each.

The next eight years will be challenging. They will demand of all of us, parliamentarians and community members alike, sophisticated thinking about where we go next and how we negotiate these challenges. I have the advantage of belonging to a movement, a party, a group of friends and a family that provide a very broad set of shoulders to stand on. My colleagues Ian Cohen, Lee Rhiannon and Sylvia Hale, and Kerry Nettle and her colleagues in the Senate have forged new paths in Australian politics. It is my privilege to travel with them along those paths.

I am here because a lot of Greens candidates, campaigners, members and supporters worked very hard, sometimes under highly adverse circumstances. I hope that at the end of eight years they can take some pride in the work we have done together collectively. My friends in the Greens and elsewhere have rubbed some of the rough edges off me but, as you have probably already observed, not all of them. They are a constant source of inspiration and ideas.

My mother and my father are watching over the Internet, as they have always watched over me and guided me throughout my life. They set the standards and all that their four children had to do was follow in their unique ways. My parents, my two brothers, my sister, and their partners and offspring are great supporters.

My partner, Lynne Joslyn, is not only a brilliant public sector teacher, but also finds the time and energy to be my best friend. She is the most patient, tolerant and selfless person I have ever met. I fear at times that she really needs to be.

To all of you I say thank you, and welcome to our journey together.

**Question—That this House do now adjourn—put and resolved in the affirmative.**

**Motion agreed to.**

**The House adjourned at 5.52 p.m. until Thursday 1 June 2007 at 11.00 a.m.**

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