

LEGISLATIVE COUNCIL

Wednesday 6 June 2007

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

The President read the Prayers.

DRUG AND ALCOHOL TREATMENT BILL 2007

TERRORISM (POLICE POWERS) AMENDMENT (PREVENTATIVE DETENTION ORDERS) BILL 2007

BIRTHS, DEATHS AND MARRIAGES REGISTRATION AMENDMENT 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 the next sitting day.

Bills read a first time and ordered to be printed.

Second readings set down as an order of the day for a future day.

FORMAL BUSINESS PROCEDURE

Sessional Order

The PRESIDENT: Yesterday the House adopted a sessional order varying the operation of Standing Order 44 relating to the calling over of formal business. Under the sessional order, before a notice of motion can be called over as formal business, members must notify the Clerks in writing during the previous sitting that they wish a motion to be considered as formal business. Forms for this purpose are available from the Clerks at the table.

Notices of motions will be called over in the order in which they appear on the notice paper. Any objection will continue to prevent a motion proceeding at that time. Motions moved under this procedure may not be debated or amended but may be agreed to or negatived on the voices or on division. The practice whereby all notices of motions are called over has been suspended during the operation of the sessional order. I inform the House that there have been no requests for any notices of motions to be called over as formal business today.

AUDIT OFFICE

Reports

The President tabled, pursuant to the Public Finance and Audit Act 1983, the following reports of the Auditor-General:

- (1) Performance audit report entitled "Connecting with Public Transport—Ministry of Transport", dated June 2007.
- (2) Performance audit report entitled "Readiness to Respond—Ambulance Service of New South Wales: Follow-up of 2001 Performance Audit", dated June 2007.

Ordered to be printed on motion by the Hon. Tony Kelly.

BUSINESS OF THE HOUSE**Postponement of Business**

Business of the House Notices of Motions Nos 1 and 2 postponed on motion by the Hon. Duncan Gay.

BUSINESS OF THE HOUSE**Suspension of Standing and Sessional Orders: Order of Business**

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.08 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 53 outside the Order of Precedence, relating to an order for papers regarding the Iron Cove Bridge, be called on forthwith.

We believe this matter is urgent because the people of the area are unsure what is happening. They have seen surveyors pegs put on the western side of the Iron Cove Bridge but they have been given no information about what is happening. The Government made several announcements. Indeed, the Hon. Christine Robertson asked a question in this House on 21 November 2006, and the Minister indicated that there was a plan to duplicate the Iron Cove Bridge. No-one has a problem with what we think is a good idea to move traffic. The real bottlenecks are probably at Lyons Road in Drummoyne and Darling Street in Balmain on the other side of the bridge, but duplication of the Iron Cove Bridge should go ahead.

We are asking for the papers—it is not a heap of papers—to find out what is happening. On 23 November 2006 Ms Lee Rhiannon asked a question in the House, and the answer provided on 2 January indicated that additions would be on the eastern side of the bridge. To this day on the Roads and Traffic Authority website there is an exotic video indicating that the flow is on the eastern side of the Iron Cove Bridge and follows through, including some parking lanes. Indeed, it is close to the new units built in that area. Recently it was indicated that the surveyors pegs are now on the western side of the bridge. The residents of Drummoyne, Balmain and Rozelle are properly concerned that they have not been consulted. Indeed, residents have held meetings on this issue. We need to find out exactly what the Government intends to do.

This is not a fishing expedition to see what we can find to embarrass the Government. The Government needs to tell the people what is happening. We need these documents so we can tell people what is happening. It is no more and no less than the Opposition trying to find out what is happening. Standing Order 52—the order for the production of documents—allows us to brief the people of New South Wales on what is happening. We believe this matter is urgent because, despite a Channel 7 story on this issue some weeks ago—I think it was on 16 May—the people of the area have not been informed.

A motion calling for papers is important, and I am disappointed the Government is refusing to debate an urgent matter. The Government's refusal to grant urgency indicates that once again it is being secretive. We do not move motions calling for the production of papers lightly. We have not called for the detailed drawings; we have simply called for papers on this matter to find out exactly what is happening on the eastern and western sides of the bridge.

I will not take up any undue time of the House. I am prosecuting a simple case: people need to know what is happening. There was huge publicity about the proposed work on the eastern side of the bridge, and by and large there was reasonable support for it. Certainly, there was full support for something being done to fix the traffic problems, but it is disappointing that the proposal does not extend to the Lyons Road and Darling Street intersections. But that is a different argument. The argument we are mounting today is that the people of New South Wales need to know what is happening. The Minister has a history of trying to cover up, as we saw with the unmarked speed camera vans. When the Minister was asked about that matter he refused to answer, and his position was exposed only when the issue appeared on the front page of the *Daily Telegraph*. [Time expired.]

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [11.14 a.m.]: This motion is a ridiculous abuse of the processes of this House. The call for papers process under the standing orders is highly resource-intensive both for government agencies and the officers of the Parliament. Therefore it is an expensive process for New South Wales taxpayers. The standing orders are not the personal research tool for the Deputy Leader of the Opposition. I do not know whether the Opposition has done any research on the Iron Cove Bridge duplication proposal. I do not know whether the Opposition has exhausted other avenues of inquiry, such as reviewing public documents or seeking whatever documents it wants under the Freedom of

Information Act, which it has not done. I do know that the Deputy Leader of the Opposition has not even asked for a briefing on this proposal.

I am advised that the Roads and Traffic Authority will soon be consulting the local community regarding the \$100 million proposed improvements to Victoria Road, including the duplication of the Iron Cove Bridge. The process will be open and transparent. It will involve all stakeholders, including residents and local government, and it will comply with all relevant legislation and planning requirements. It is outrageous and, frankly, laughable that the Deputy Leader of the Opposition would move this motion prior to the process even starting. The process for the project has not started, yet the Deputy Leader of the Opposition is demanding that papers be produced. The Opposition has a lot of form in terms of calling for papers. In the previous parliamentary session the Roads and Traffic Authority provided about 80,000 separate pages of information through resolutions relating to the production of papers. So the Coalition has some form in terms of going on a massive fishing expedition.

I am more than happy to arrange a briefing for the Deputy Leader of the Opposition on this issue should he seek it. This is a disgraceful motion from an Opposition that cannot be bothered to do its own research. It is not appropriate that the taxpayers of New South Wales should foot the bill for the laziness of the Deputy Leader of the Opposition. I urge honourable members to vote against this motion. It is an abuse of power. The project has not even commenced. We have not begun the community consultation, yet the Roads and Traffic Authority is to be asked to respond to a call for papers. Is this the way we will run all future Roads and Traffic Authority projects? It is disappointing. It is an abuse of power by the honourable member; it demonstrates that he is too lazy to go out and do the work, commence a request under the Freedom of Information Act, or ask for a briefing. Instead, he prefers to abuse the processes of this House.

Reverend the Hon. FRED NILE [11.17 a.m.]: I am concerned about frequent requests for the production of papers under Standing Order 52, which of course is available to be used. I am concerned that the Deputy Leader of the Opposition said that he needs these papers so that we can brief the people. That is the Government's role.

The Hon. Duncan Gay: But it hasn't done it.

Reverend the Hon. FRED NILE: That is the point I am making; it is the role of government. It seems as if the motion would interfere with the process. Apparently something has happened, although I have not been briefed on it. If the surveyors pegs have been moved from one side of the bridge to the other, I assume there is a technical reason, which may have only just been discovered, why the duplication must be moved from the western side to the eastern side of the bridge. The Government is now aware of that, and it must make decisions and respond to the changes as part of the process. When the Government makes a decision it will brief the people about the changes. So it seems as if this motion is a pre-emptive strike against the Government while duplication of the Iron Cove Bridge is in a fluid state.

As someone who lived in Ryde for 17 years, I absolutely support the duplication. It should have been done long ago; it is long overdue. I do not believe anything should be done in this House that would hinder the finalisation of the duplication of the Iron Cove Bridge. I would prefer the House to wait until the Government investigates the need to bring about this change and makes an announcement and briefs both the House and the public as to future plans.

The Hon. ROBERT BROWN [11.19 a.m.]: The Shooters Party supports the motion for urgency. However, the call for papers probably will not resolve the issue because, as the Minister for Roads said, the project has not started yet. That is not the point. Local residents, particularly on the western side of the bridge, have concerns about this project. There are a number of houses on the western side of the bridge, the Balmain side, and a couple on the Drummoyne side. The residents need not be concerned or worried because a public consultation process will take place. But perhaps the Government should inform residents immediately of any changes to the plans.

The residents know there is a public need to widen Victoria Road and duplicate the bridge. But I understand the concern of residents, who may have a family home with a mortgage, if suddenly they see pegs in the ground. I do not see the need for an endless call for papers. I agree with Reverend the Hon. Fred Nile on that point. I also agree with the Minister for Roads that it is a costly exercise. However, in this case, because the exercise will not be too costly, we support the call for urgency.

The Hon. JENNIFER GARDINER [11.21 a.m.]: Today the House heard the Minister for Roads read the script the Treasurer of New South Wales probably wrote for him. They heard him attack the Opposition and any other members of the House who move motions calling for papers. As the Opposition and the crossbencher try to bring some accountability by the Government to the Parliament, we will hear those words over and over again. I guess we will get used to that. However, the Opposition will continue to try to bring the Government to account. I am concerned that this morning the Minister for Roads misled the House. In attacking the Deputy Leader of the Opposition, who moved the motion, the Minister claimed that the honourable member had not sought a briefing from his office. The fact is that the Deputy Leader of the Opposition, as the shadow Minister for Roads, formally requested a briefing from the Minister for Roads on roads issues back on 14 May 2007.

The Hon. Eric Roozendaal: He did say the Iron Cove Bridge. You know that. What you say is nonsense.

The Hon. JENNIFER GARDINER: Obviously the Deputy Leader of the Opposition would have asked about the Iron Cove Bridge. The Minister for Roads has completely misled the House. The shadow Minister did ask for a briefing on roads issues and the Minister failed to provide one. It goes to the whole point of why roads issues keep cropping up in this House. People are affected by decisions made by the Minister for Roads and his department, the Roads and Traffic Authority, yet the Minister and his department chronically fail to keep local communities informed, whether it is about the Iron Cove Bridge, the Pacific Highway, or any other number of routes throughout the State. It is a serious matter when the Minister claims that the honourable member who moved the motion has not asked for a briefing when, in fact, he has.

The Hon. Amanda Fazio: Point of order: The House is debating urgency on this matter. It is entirely inappropriate and outside the standing orders for the Hon. Jennifer Gardiner to reflect on comments the Minister for Roads made during his contribution to the debate. The honourable member should talk about why the call for papers is so urgent that it must be dealt with now. If the Hon. Jennifer Gardiner wants to attack and defame the Minister and falsely accuse him of misleading the House, now is not the time to do so. I ask that the honourable member be directed to show why the matter is urgent. That is the only issue she should address in debate on whether urgency should be granted.

The Hon. Duncan Gay: To the point of order: When giving his reasons for not agreeing to urgency, the Minister for Roads said that if this matter were urgent I would have asked for a briefing. He indicated to the House by way of a statement that I had not asked for a briefing. The Hon. Jennifer Gardiner, quite properly, has detailed a copy of a letter I sent to the Minister for Roads on 14 May in which I said:

Dear Minister

I would like to formally request a briefing on the Roads portfolio through you from the Roads and Traffic Authority.

The Iron Cove Bridge is certainly part of the Roads portfolio. The point of order taken by the Hon. Amanda Fazio is a spurious one.

The PRESIDENT: Order! I thank members for their guidance on this procedural point. At this stage members must confine their remarks to whether the matter is urgent. All members will comply with that ruling. Does the Hon. Jennifer Gardiner have anything further to contribute to the debate?

The Hon. JENNIFER GARDINER: No.

The Hon. AMANDA FAZIO [11.26 a.m.]: In speaking against the motion I say that this matter is clearly not urgent. As the Minister for Roads outlined, the Opposition has not made a request for a specific briefing on the Iron Cove Bridge project. For the Opposition to claim otherwise is absolutely rubbish; it is misleading the House. The call for papers is not a matter of urgency, because the project has barely begun. Opposition members do not know what they are asking for. They are too lazy to do their own research. They abuse the powers of the House by asking the House, by way of Standing Order 52, to instruct the Roads and Traffic Authority to do their research for them. We all know that Duncan Gay is an idiot. We all know that he is a buffoon. He does not have to come in here time after time and demonstrate that.

The Hon. Rick Colless: Point of order: It is inappropriate for members to speak about other members in that way. I ask that the member be directed to withdraw the remark.

The PRESIDENT: Order! I ask the Hon. Amanda Fazio to withdraw the remark. Members would be well aware that Standing Order 91 (3) states that a member may not use offensive words, or make imputations of improper motives, against either House of The Legislature or any member of either House.

The Hon. AMANDA FAZIO: I withdraw my comments about the intellectual capacity of the Deputy Leader of the Opposition and apologise to the House if he has taken offence at my comments. That does not detract from my statement that as a shadow Minister he is being lazy and abusing Standing Order 52 by getting the Parliament to instruct the Roads and Traffic Authority to do his research for him. Clearly this matter is not urgent. It is an abuse of the parliamentary process. Any member who thinks about the normal processes and how a shadow Minister should operate would not, if they were being honest to themselves, vote for this motion. I urge all members to consider the facts. This is not an urgent matter and does not deserve to be granted urgency. I urge all members to vote against the motion put forward by the Deputy Leader of the Opposition.

Question—That the motion be agreed to—put and resolved in the affirmative.

Motion agreed to.

Order of Business

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.36 a.m.]: I move:

That Private Members' Business item No. 53 outside the Order of Precedence be called on forthwith.

Question—put.

The House divided.

Ayes, 21

Mr Ajaka	Ms Hale	Mr Pearce
Mr Brown	Dr Kaye	Ms Rhiannon
Mr Clarke	Mr Khan	Mr Smith
Mr Cohen	Mr Lynn	
Ms Cusack	Mr Mason-Cox	
Mr Gallacher	Reverend Dr Moyes	<i>Tellers,</i>
Miss Gardiner	Ms Parker	Mr Colless
Mr Gay	Mrs Pavey	Mr Harwin

Noes, 18

Mr Catanzariti	Reverend Nile	Mr West
Mr Costa	Mr Obeid	Ms Westwood
Ms Fazio	Ms Robertson	
Ms Griffin	Mr Roozendaal	
Mr Hatzistergos	Ms Sharpe	<i>Tellers,</i>
Mr Kelly	Mr Tsang	Mr Donnelly
Mr Macdonald	Ms Voltz	Mr Veitch

Pairs

Ms Ficarra	Mr Della Bosca
------------	----------------

Question resolved in the affirmative.

Motion agreed to.

IRON COVE BRIDGE

Production of Documents: Order

Motion by the Hon. Duncan Gay agreed to:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution all documents created since January 2006, excluding any photographs, technical drawings, plans, designs or specifications, in the possession, custody or control of the Premier, the Department of Premier and Cabinet, the Minister for

Roads, the Roads and Traffic Authority, the Minister for Planning, or the Department of Planning relating to the proposed duplication of the Iron Cove Bridge, and any document which records or refers to the production of documents as a result of this order of the House.

MENTAL HEALTH BILL 2007

Second Reading

Debate resumed from 5 June 2007.

Ms SYLVIA HALE [11.38 a.m.]: My colleague Lee Rhiannon will lead for the Greens on this bill. I will address my remarks to those aspects of the bill that deal with forensic patients. Mental illness and imprisonment are inextricably linked. Many prisoners have a mental illness, and some suffer from severe mental illness. No doubt some prisoners should be forensic patients and not housed in the mainstream system, and many would not be in gaol at all if we had better intervention services. Once people are in custody, however, the State has a duty of care to them and to other prisoners. Yet prisoners in New South Wales are not able to access adequate psychiatric or psychological treatment. Failure to receive adequate, timely treatment means they can pose a risk to themselves as well as to others.

The assessing staff, without having full access to the prisoner's history of violence and psychiatric illness, are sometimes required to make judgments about the risk a prisoner poses to himself or herself, or to others. This was so in the case of Scott Ashley Simpson, who was placed in a cell with another prisoner despite his having a violent history and incidents being recorded of his threatening former cellmates. Yet the assessing staff, who were to assess the risk or otherwise to prisoners, were not made aware of this information. After being assessed, Scott Simpson was placed in a two-out cell. Within 15 minutes, while in a state of paranoid delusion, he killed his cellmate.

Scott Simpson was subsequently kept in segregation or solitary confinement for two years, during which time he saw seven different psychiatrists. He was on the waiting list for the Long Bay hospital, but he committed suicide before being admitted. I cannot think of a more appalling indictment of the mental health services that operate—or fail to operate—within the New South Wales prison system. Simpson's case is an extreme and tragic one. But it is just the tip of the iceberg. Mentally ill people in New South Wales have not been given access to proper treatment, and many end up on the streets or in today's de facto psychiatric institutions—not in psychiatric hospitals but, rather, in homelessness services and in jails.

The Public Interest Advocacy Centre, in its submission to the review of the Mental Health Act, observed that "the present arrangements in New South Wales are not consistent with international obligations"—that is, they are not consistent with Australia's obligations to the United Nations agreements our nation has committed to. The centre's submission also argued that it is deplorable to simply place mentally ill prisoners in solitary confinement in prison. The submission noted:

The former President of the Mental Health Review Tribunal, Professor Duncan Chappell, stated on a number of occasions while President, that the use of prolonged segregation as a management tool of people with mental illness is an abuse of human rights, and that the practice should cease.

Indeed, members who watched last Monday's edition of *Four Corners* will be well aware of the destructive impact of isolation and sensory deprivation on an individual's sanity. The period for which people should be kept in isolation or segregation should be strictly limited. Mentally ill people need treatment in a hospital, and should not be held in segregation or isolation, which can only serve to exacerbate their ill health.

It is obvious that we are not meeting international best practice standards, because too many prisoners in the mainstream prison system have a mental illness and are not receiving treatment. Many have ended up in prison because they have had little access to proper care before they committed a crime. Poverty, substance abuse, mental illness and the postcode one comes from are the key predictors of who will end up in prison and who will not. Professor Tony Vinson's research on areas of socioeconomic disadvantage has made it clear that long-term intervention in disadvantaged communities is the only way to reduce poverty, reduce offending, and give people real prospects of living meaningful, fulfilling lives.

The Government has commenced constructing a forensic unit at Long Bay jail, and the Greens support this. But the unit is being built in a public-private partnership arrangement with Babcock and Brown, which gives us some cause for concern. Although those working in the facility as health professionals will be employees of NSW Health, as with all public-private partnerships the operators will doubtless seek to cut costs in other areas—catering, cleaning and ancillary services—and we fear that this will result in adverse impacts upon patients.

The other issue is capacity. We are yet to see how soon the new forensic facility will become full. The consequence will be that those waiting for transfer will continue to be held in the mainstream correctional centres at Long Bay and elsewhere in New South Wales. It is wrong that resource restrictions imposed by Government should undermine not only a patient's right to appropriate and timely care but also their fundamental human rights.

The Greens are also concerned about a number of clauses in chapter 4, part 3 of the bill that relate to other medical treatments. This part of the bill generally lacks clarity. Specifically, we are worried by clause 99 (l), which empowers an authorised medical officer or the director general to consent to the performance of an operation on an involuntary patient, other than a forensic patient not suffering from a mental illness. It is unclear who may fall into this exclusive group: just who is a forensic patient? It seems inherently contradictory to refer to a forensic patient who does not have a mental illness. A definition of this term should be included in the definitions clause, clause 98.

The Greens support the bill but believe it should be amended. We also believe there has been insufficient time for detailed submissions to be made on the exposure draft of the bill and, as a result, the bill is unnecessarily flawed. It is with real reservations that we support it.

Ms LEE RHIANNON [11.46 a.m.]: The Greens support the Mental Health Bill with some reservations, and I foreshadow that we will move some amendments in Committee. The bill is a missed opportunity for the New South Wales Government, and in turn a missed opportunity for the mental health sector in New South Wales more broadly. We know that the New South Wales mental health system has been severely underfunded and understaffed for a long time. We know that the Government has not met its spending commitments. We know that mental health is still stigmatised. We know that people are not able to access help when they need it, and that when they do get help it is often in a crisis situation rather than at the beginning of their illness.

This bill goes some way to improving the current mental health system, but it is disappointing that it does not go further. The Mental Health Act has been in place since 1990, more or less unchanged except for two rounds of amendments. And that was 17 years ago! This review is well overdue. The bill should be a result of many months of broad and rigorous community consultation. If the New South Wales Government is as serious about mental health reform as it claims to be, we would have a much more sophisticated piece of legislation than we have before us today. We can only assume that the Government did not want to look like it had dropped the ball on mental health law reform, given that mental health was supposedly so high on its agenda.

I congratulate the New South Wales Government on starting on the right track and releasing an exposure draft of the bill. However, as we see too often, the bill was hastily tied together and put before Parliament last year in time for the election. A number of consumer and policy organisations have approached the Greens with concerns that there was simply not enough time for the Government to consider the submissions that were made and engage in proper public consultation. As a result, the bill is not what it could be.

New South Wales is once again behind other jurisdictions in regard to cutting-edge law reform. Mental health is an area in which New South Wales claims to be a leader. I do not know what it is about this Government, but too often we see New South Wales lagging behind other States, such as Victoria and South Australia. That is a shame. It is an indictment of the Government that it is missing such a crucial opportunity to have the best Act we could possibly have for New South Wales.

The Greens believe that there should be greater participation for mental health care consumers—for patients—in the development, planning and delivery of mental health services. The bill clearly tries to reflect the important role of carers in the delivery of mental health services, and we applaud this aim. The Greens also welcome the recognition that health services such as the Ambulance Service are better placed than police officers to deliver health care and support to those requiring mental health treatment. This recognition is positive.

The Greens are concerned, however, that the bill is the result of a disjointed review process. Presumably to avoid political embarrassment about the Government's treatment of forensic patients, the forensic provisions of the Mental Health Act have been shunted off to a separate review. This means that the current bill is being tabled whilst some parts of it are still being considered in another review conducted by the Hon. Greg James, QC. We are left with a haphazard and piecemeal outcome for mental health. The Government should delay the changes it proposes to the Mental Health Act until the forensic procedures review is complete. The

Greens believe that there should be a clear statement of principles to guide the interpretation of the legislation. For example, section 6A of the Victorian Mental Health Act 1986 provides a useful model for what could and should be included in this bill.

We are concerned by the lack of criteria for the appointment of and exercise of powers by an accredited person. The bill revisits the concept of the "accredited person" under clause 136, defined in section 287A of the Act. We are concerned that neither the Act nor the bill provides for any guidance on criteria for appointment as an accredited person. Given the term "accredited person" is used extensively in the bill, the absence of criteria is of some concern. We join with other consumer and policy groups and call on the Government to specify more clearly who is eligible to become an accredited person under the bill.

The Greens believe that there is a need for safeguards around nomination, variation and revocation of a primary carer. We congratulate the Government on trying to engage carers and include them more in the operation of mental health law. However, we have a number of concerns in regard to the concept of the primary carer. Clause 72 (1) of the bill allows a person to nominate a person to be their primary carer and also allows a person to revoke or vary any such nomination. What happens where there are conflicts between a primary carer and the person being cared for? What happens if a person is in an acute episode of mental illness and while having altered perceptions chooses to nominate or revoke a primary carer?

Clause 72 (7) gives relevant professionals the power to not give effect to a nomination or variation if the professional reasonably believes that it may put the patient at risk of serious harm. How will this process work in practice? The need for "serious" harm sets the bar very high. What other safeguards are there? Giving professionals such a wide discretion will prove to be a very challenging task and open up a minefield for professionals trying to manage and negotiate relationships with carers and patients. I would like this addressed in the Government's reply. Would the Government establish a process, such as the Guardianship Tribunal, to review the role of a guardian, when required, to prevent exploitation, abuse and mistreatment of vulnerable individuals? I look forward to hearing the Minister's comments on that matter.

The Greens are concerned by the apparent broadening of consent authorisation for transfer from medical facilities to mental health facilities. In our view, clause 25 of the bill, detention after transfer from another facility, is far too broad and vague to be an acceptable part of this legislation. Who is the medical officer in this context? Is it the medical officer responsible for the care and treatment of the patient? Why is this not limited to the authorised medical officer, given that the powers exercised under this clause are broad? Clause 25 (2) provides that once a person has been transferred to a facility they are automatically detained in the mental health facility. The Greens are concerned that the powers under this section are not appropriately clear and are too open to misuse.

The Greens are unclear on the circumstances in which medical treatment without consent would be permitted. A number of health policy groups have contacted the Greens with concerns that clause 100 of this bill has an outdated approach to involuntary surgical treatment of mentally ill patients. It is unclear why the Mental Health Review Tribunal should not perform this function under clause 101 of the bill, and why powers are given to both the tribunal and the director general in this context. Why are there not clearer guidelines regarding the consent of non-psychiatric medical treatment of mentally ill patients, such as the protocols that are available under the Guardianship Act 1987 or the usual requirement that either the person or the person's next of kin consent?

Those protocols first look to the patient's own consent, and then to the consent of a substitute decision-maker closer to the patient than the authorised medical practitioner is likely to be. The Greens believe that wherever possible the patient must be given the opportunity to give his or her consent to the proposed treatment. If the patient does not or cannot give consent, protocols similar to those in part 5 of the Guardianship Act should apply. We are concerned by the inclusion of authorisation for special medical treatment in this legislation. In our view the definitions and distinction between special medical treatment and prescribed special medical treatment under clause 103 is cumbersome and confusing. Consumers and carers will have to wrestle with this section. Clearer terminology and definitions are needed.

This bill does not seem to take into account the current work being undertaken by the Standing Committee of Attorneys-General in relation to the consent to medical treatments that may result in sterilisation. No provisions for consent to such treatment should be included at this stage. The Greens are also concerned by the changes proposed to the composition of the Mental Health Review Tribunal. The bill alters the possible composition of the Mental Health Review Tribunal quite considerably. The Greens are very concerned about

this. For example, clause 150 of the bill is considerably different from sections 264 and 265 of the current Mental Health Act. Clause 150 provides that the tribunal is to be constituted by one or more members nominated by the president for the exercise of some of its functions.

The tribunal is currently composed of three members with different expertise to allow a range of expert views to be taken into consideration in making decisions and recommendations. The three-member panel comprises the president, a deputy-president or a member who is an Australian lawyer, a member who is a psychiatrist, and a member who has other suitable qualifications or experience. We are of the understanding that this model works well. It is international best practice. We cannot see any need or any justification for the proposed shift to a tribunal made up of only one member, who would be a legal member. On the contrary, we are of the view that this will substantially weaken the effectiveness of and support for the tribunal.

We are not comfortable with a clause that allows the tribunal to comprise only one member. We understand that matters where only one member sits are supposed to be restricted to minor and procedural matters. However, there is too much ambiguity in this bill as to what would be deemed minor or administrative. As the decision-making process of the tribunal is not open to public scrutiny in the same way as courts' decision-making processes are, we consider the placing of decision-making power in the hands of one individual to be an extraordinary, unnecessary and potentially compromising change to the tribunal.

Finally, we do not agree with the extension of community treatment orders from six to twelve months. We believe that the existing six-month limit should remain in place. To conclude, mental health is an important and challenging area of law reform. There is often a difficult tango between the State's obligations to ensure health services and the rights of people who suffer from a mental illness and their carers. We cannot skate over the top of these difficult issues. There is no substitute for broad and rigorous consultation. In this case, hurried legislation leads to sub-standard legislation. This bill goes some way to improving the current system but it is certainly not what it could or should be.

The Hon. MICHAEL COSTA (Treasurer, Minister for Infrastructure, and Minister for the Hunter) [11.58 a.m.], in reply: I thank honourable members for their contributions to this debate. 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.

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

QUESTIONS WITHOUT NOTICE

The PRESIDENT: Order! Prior to calling for questions I advise that I am having considerable difficulty identifying members who are seeking the call. Over the years members have been continually reminded—and I take this opportunity to inform new members of this—that when they seek the call they should stand in their place and call out something akin to the words "Mr President". The Chair would then be aware who is seeking the call and a member will then be given the call. That member can either speak from where he or she is standing or, preferably, come forward and address the House from the table. I urge all members to assist the Chair in this respect during both debate in the House and consideration in Committee.

SPEED CAMERAS

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Roads. Does the Minister recall on 10 May the Opposition questioned him about plans to use parked, unmarked vehicles with no signage to catch speeding drivers? On that occasion why did the Minister not admit to the public of New South Wales that the Roads and Traffic Authority [RTA] had plans to use covert speed cameras? Whilst the Minister talks about transparency and a preparedness to work with the public, why did he only admit to the plan when the *Daily Telegraph* published the story on the front page yesterday?

The Hon. ERIC ROOZENDAAL: The Iemma Government supports high visibility speed enforcement. That is our policy and it is why we are increasing the number of highway patrols on our roads by 150. For the Government to move to a new approach there would need to be a strong and clear link between any new technology and a substantial deterrent effect and a real benefit to the community. I welcome community debate on this issue. I would be happy if speed cameras did not raise a cent, because that would mean people were not speeding, but speeding is the single biggest contributing factor to fatalities on our roads.

Last year the New South Wales road toll was a record low since World War II, but we still need to do better. That is why the Government's State Plan aims to further decrease the road toll, with a target of 0.7 fatalities per 100 million vehicle kilometres travelled. In order to achieve this, key agencies including the Roads and Traffic Authority and police have been reviewing options and assessing all available technology and operational procedures. The Roads and Traffic Authority and police have been tasked with investigating options and policies used in other jurisdictions, both within Australia and overseas, and to report back to the Government. The Roads and Traffic Authority is continually looking at all the emerging technology and new approaches to save lives on our roads. That is the job of the Roads and Traffic Authority but the Government decides policy and we remain committed to high visibility speed enforcement.

TELSTRA CALL CENTRES CLOSURE

The Hon. CHRISTINE ROBERTSON: My question is directed to the Minister for Regional Development. What is the Government's reaction to Telstra's plan to axe 13 call centres and retrench hundreds of jobs in regional New South Wales?

The Hon. TONY KELLY: The decision by Telstra yesterday to slash hundreds of call centre jobs is a very disappointing one and one that should see Liberals and Nationals opposite hang their heads in shame. This announcement is part of a broader plan by Telstra to axe between 10,000 and 12,000 jobs across Australia, a plan that has the Howard Government's fingerprints all over it. Communities in Newcastle and Wollongong will suffer for many years because of this decision. The human face of this decision is that 219 people will lose their jobs in Newcastle and 88 people will lose their jobs in Wollongong. That is 307 pay packets ripped out of two key regional communities under the questionable guise of cost cutting. But it means so much more than those 307 jobs. The knock-on effect of taking away these 307 pay packets will affect hundreds more people and businesses in these communities. These people spend money every week with a whole host of local businesses that will now have to go without this precious income. That is to say nothing of the impact this will have on Telstra's already disappointing service.

No wonder country and regional people are turning their backs on The Nationals. They sat in silence and let John Howard flog off for a pittance the last remaining public share of Telstra, betraying the telecommunication needs of rural and regional Australia. Anyone who walks down a main street in country New South Wales and mentions Telstra and The Nationals will be left in no doubt about the public's view of the Coalition's deception and lies over this great Australian institution. The Nationals have forgotten how to stand up for the interests of country communities.

Fortunately the Iemma Government is committed to the future of country and regional New South Wales and is working hard in these areas to generate the vital investment and jobs growth that they need to grow and prosper. I turn to the Government's record. Over the last four years the New South Wales Government has secured projects worth \$3.29 billion in investment, which have delivered 14,600 jobs in regional New South Wales. We are growing economies in the bush and creating jobs. That is what Labor is all about. We are also trying to save these jobs in Newcastle and Wollongong.

This morning I met with executives from Telstra and conveyed my disappointment over the proposed job cuts. I urged Telstra to reconsider these decisions and their impact on the communities of Newcastle and Wollongong. Although we have no guarantees on the jobs, Telstra has committed to contacting the local Labor members in Newcastle and Wollongong to further discuss the proposed changes and their local impacts. The Iemma Government is also currently working with a number of other companies to secure projects in regional and metropolitan areas of the State that could utilise some of the displaced Telstra staff.

The contrast is there yet again for all to see. The Opposition is failing to stand up to Canberra while the Iemma Government is doing whatever it can to help the people it represents. Without Federal Government action it will be very difficult for us to save these vital jobs but the Iemma Government is trying and we will keep trying because that is what we were elected to do.

MINISTER FOR ROADS RESPONSE TO BRIEFING REQUEST

The Hon. DUNCAN GAY: My question without notice is directed to the Minister for Roads. Is the Minister aware that I sent a letter on 15 May to the Minister for Ports and Waterways, Joe Tripodi, requesting a briefing? Is the Minister further aware that Minister Tripodi replied to my letter on 28 May agreeing to the briefing and that I am meeting with NSW Maritime this week? Is the Minister aware that I sent him a letter on the same day, 15 May, requesting a formal briefing from the Roads and Traffic Authority on all issues and I am yet to receive a response? Does he recall calling me lazy in the House today? What does this mean, given that he has still not replied to me almost a month later?

The Hon. ERIC ROOZENDAAL: In answer to the question no, no, and yes, in relation to the letter to my office. In relation to the issue about laziness, since the honourable member has so generously asked me why I consider him lazy, I will explain it. Recently he was interviewed on the radio program *Sunday*. In his usual lazy way he was criticising the Government. When the commentator said, "What actually is your policy?"—

The Hon. Michael Gallacher: How can you be lazy on the radio?

The Hon. ERIC ROOZENDAAL: When you sort of mumble your way through without actually saying anything; that is how you can be lazy. The commentator, listening carefully to the mumblings of lazy Duncan, said, "What's your solution?" He said, "Oh, well, it's a Sunday. Oh, gee whiz, that's a bit hard." That is why I think he is lazy.

The Hon. Duncan Gay: Point of order: I am more than happy for the Minister to table a full transcript of the interview, because that statement is inaccurate and selective. I gave a detailed response.

The PRESIDENT: Order! There is no point of order. The Deputy Leader of the Opposition knows full well that is a debating point.

The Hon. ERIC ROOZENDAAL: I will give the House another reason I think the Deputy Leader of the Opposition is lazy, because he is asking why I think he is so lazy. We know that his total extent of research is to open the *Daily Telegraph*, have a quick glance and that is it. He does not read the *Sydney Morning Herald* or the *Australian*; they are a bit cerebral for him. So he sits in his Redfern residence—he loves Redfern because he can identify with the village life there—drinking a cappuccino while plotting his strategy for the day. That is what he does. That is the extent of his hard work. That is why, unfortunately, the work ethic of the Deputy Leader of the Opposition is questionable. He is lazy. I am sorry about that. Perhaps if he tries hard in the future he will shake his reputation for being lazy; unfortunately, at this stage he will have to work a lot harder before he convinces me that he is doing any work.

ClubsNSW—POKER MACHINES AND REVENUE DIVERSIFICATION

Reverend the Hon. Dr GORDON MOYES: I ask to Minister for Primary Industries, on behalf of the Minister for Gaming and Racing, and Minister for Sport and Recreation, the following question without notice. Is the Minister aware that ClubsNSW has called on its members to move away from poker machine profits and diversify their businesses to focus on gyms and retail shops as sources of revenue? Is the Minister further aware that poker machine takings currently provide 68 per cent of club revenue? Will the Minister explain what specific measures the Government is considering to encourage clubs to change their focus from increasing poker machine revenue to other means of revenue raising, given the concern about gambling addiction in the community?

The Hon. IAN MACDONALD: I will refer that detailed question to the Minister for a speedy reply.

CRIME PREVENTION FUNDING

The Hon. AMANDA FAZIO: My question is addressed to the Attorney General. What is the latest information with regard to new crime prevention funding?

The Hon. JOHN HATZISTERGOS: I thank the honourable member for this important question. The Government's State Plan commits to reducing rates of crime and reoffending. An important government initiative aimed at achieving these reductions is the development of crime prevention plans in conjunction with local governments. This is because local people best understand local problems and they can best identify the

services and approaches required. This financial year the Government will provide almost \$2 million to community-based crime prevention projects across the State. I am pleased to advise the House today that grants of more than \$230,000 will be provided to six councils across New South Wales for new crime prevention initiatives.

I am pleased to advise that Greater Taree City Council will receive \$50,000 for a project to help reduce and prevent domestic violence. Education programs and new resources will be developed to raise the awareness of doctors, community organisations and teachers to increase their skills in identifying and addressing domestic violence and referring those in need to help. The project is also looking to increase young people's knowledge of entering and maintaining respectful relationships. The project will be developed through research conducted of similar projects implemented across Australia and internationally. The second grant goes to Byron Shire Council, which will receive \$50,000 to reduce alcohol-related violence among young people. This project will involve council working in close partnership with Byron Youth Services, the North Coast Area Health Service and New South Wales police to develop safe social events for young people.

Staff will engage young people in the development and management of these events, aimed at reducing the number of alcohol-related incidents that occur at venues and public places. Funding is also being provided to target the supply of alcohol to minors, and staff will work with key stakeholders, including local police, liquor outlets, schools and drug and alcohol counsellors. I am also pleased to advise that the Port Macquarie-Hastings Council has received a State Government grant of \$21,000 to help prevent crime in the community. The grant will be used to implement a night rider program that will complement existing public transport in the peak tourist season of December 2007 and January 2008.

The project demonstrates a strong partnership between the local community, government and other services. It aims to reduce the incidence of alcohol-related crime by assisting people to return home after a night out. The program has already been operating successfully for four years and this grant will help to ensure the continuation of the service. The Government is also providing a grant of more than \$40,000 to Port Stephens Council for two projects. The first project is designed to reduce the risk of elderly and disabled residents experiencing "break, enter and steal" offences through the provision of educational materials and resources to increase residents' home security. It is modelled on similar initiatives implemented across Australia that have been successful in reducing crime rates.

The second project involves community members and service providers working together to engage young people who are at risk of committing alcohol-related offences. A mobile community outreach service will operate, providing support to people in public, and aims to engage young people in workshops and other positive opportunities. I am also pleased to advise that Waverley Council will receive almost \$25,000 for a project designed to reduce theft of personal property from the beach and cars parked nearby. The project will involve education material and signage in various languages so that the locals and the many visitors to Bondi can have a positive holiday experience. Lockers will also be available at selected times over the peak period to increase personal property security for beach goers.

Implementation of the project will be the first time a comprehensive campaign has been implemented in the local area. It is an important initiative, given that on an average summer day Bondi Beach may get up to 25,000 visitors who may become the target of theft. The final grant, for \$49,900, goes to Gunnedah Shire Council to help reduce and prevent alcohol-related assault and malicious damage to property in the local community. The project will deliver a late-night transport service. *[Time expired.]*

SENSIS BUSINESS CONFIDENCE SURVEY

The Hon. GREG PEARCE: I address my question to the Treasurer. Is the Treasurer aware of the latest Sensis Business Survey? The survey found significant increased confidence among small and medium businesses as a result of the Howard Government's economic and workplace policies. But it found that only 4 per cent have confidence in the New South Wales Government, which has recorded the lowest result of any State or Territory Government for 13 successive quarters. The survey found that nearly half, or 44 per cent, of businesses in New South Wales say that the Iemma Government is working against them, particularly in key areas, including too much bureaucracy, too many government charges and land tax issues. What action is the Treasurer taking to address the concerns of small and medium businesses? If the Treasurer does not have the report, I can provide him with a copy.

The Hon. MICHAEL COSTA: Not only do I have the report but I was waiting for the Hon. Greg Pearce to ask the question. My office staff asked me whether I wanted a dorothea dixie question on this matter,

and I said, "No, he's silly enough to ask me about it." I thought I would wait and see whether I was asked the question, and I was. In the interests of fairness, I think the easiest way to resolve this issue is to read from the Sensis media release that accompanied the report released yesterday. The media release stated:

New South Wales has recorded the biggest jump in business confidence across the nation, according to the latest Sensis business index released today.

The Hon. Greg Pearce: No thanks to you!

The Hon. MICHAEL COSTA: Talk about an own goal! The Hon. Greg Pearce asked the silly question. The survey that is undertaken quarterly by Sensis to track and understand the views of small business interviewed 1,800 businesses from 24 April to 31 May. The report's author, Miss Christina Singh, said, "Business confidence amongst New South Wales small and medium enterprises had jumped 6 percentage points during the quarter. Business confidence in New South Wales"—listen to this—"is now 23 percentage points higher than it was this time last year, showing businesses are now significantly more optimistic about their business prospects in New South Wales."

I thank the Hon. Greg Pearce for scoring another own goal in this House. He is getting good at that. This morning he got a pat on the back from Alan Jones, who said he was a bright boy. I nearly spilt my coffee because I had seen the full report. I will have to tell Alan that the member only quoted selectively from the Sensis report. The Sensis business report shows that business confidence in New South Wales is growing, the business community is endorsing the Government, and the Government's policies are clearly moving the economy forward.

As I said yesterday, this mob was claiming that we would be in recession and would have a \$1 billion budget deficit going into the election. I inform the House that the latest Australian Bureau of Statistics final demand figures, which came out at 11.30 today, show that the New South Wales economy is growing at 1.2 per cent. The bureau not only shows the New South Wales economy as growing, it has revised upwards the negative figure we received two quarters ago. I said at the time that the negative figure should not be taken as gospel. So we had a positive growth rate. That shows the danger of the Opposition running on selective statistics, which they do not understand. Figures get revised. The Opposition now look like fools. They ran around for months talking down the State's economy and saying we were in recession.

The figures show clearly that the State was never in recession and, in fact, we are growing at a very healthy rate. We do not have the luxury of a resources boom that the other States have, but we are growing at a great rate. In case some members think that is an accident, the trend rates show a very healthy growth rate of 3.2 per cent over the past 12 months. Where is their recession? They were talking down the State's economy, and now, based on these figures, they look like absolute fools. They cannot dispute the figures. Further, the Sensis business report shows a 23 per cent increase in business confidence in New South Wales. I thank the Opposition for the question.

GREENHOUSE GAS EMISSIONS

Reverend the Hon. FRED NILE: I ask the Treasurer, Minister for Infrastructure, and Minister for the Hunter a question without notice. Is it a fact that the greenhouse gas emissions campaigners in their attacks on infrastructure projects, such as the third Newcastle coal loader and future coalmines, have claimed that Australia is a leading greenhouse gas emissions polluter? Is this allegation scientifically valid? What percentage of greenhouse gas emissions is generated by Australian industry, cars and so on? Which nations, by percentage, are the greatest generators of greenhouse gas emissions in the world?

The Hon. MICHAEL COSTA: I did not ask for this question, unlike the last one, which was an own goal. I am happy to attempt to answer Reverend the Hon. Fred Nile's question.

The Hon. Michael Gallacher: How can you remember it all?

The Hon. MICHAEL COSTA: I can remember it because, as opposed to some members, I read the scientific evidence in this area, and it does not say anything like the Greens say about these matters. The Greens constantly attack our coal industry and coal infrastructure. I do not know where Mr Ian Cohen is.

The Hon. Michael Gallacher: Joel Fitzgibbon criticises you.

The Hon. MICHAEL COSTA: Joel was wrong.

The Hon. Michael Gallacher: No, he was not. He was right in criticising you.

The Hon. MICHAEL COSTA: He was very wrong. We do not control the coal loaders. Our role is to approve the planning. To answer the question, which is an interesting one, once again the Greens are distorting statistics on Australia's contribution to greenhouse gas. They claim that the coal that is taken overseas and burnt in China and other places is our contribution to greenhouse gas emissions. That is how they distort the figures. Even if one looks at the figures with that qualification, they do not show anything like the Greens claim. The largest contributor to greenhouse gas is, of course, the United States, which contributes about 20 per cent of the world's total greenhouse gas emissions. China's contribution is about 15 per cent, but it is estimated that China's greenhouse gas emissions will grow by 2050 to overtake the United States. Australia is down at about 1.5 per cent of total contributions to greenhouse gas emissions. The Greens should know that fact. It is an absolute nonsense to attack the coal industry in this country on that basis.

The other problem with the Greens argument is that they do not understand the whole issue in any event. The House should take note of this information. The major contributor to greenhouse gas is water vapour. Without water vapour, which represents about 85 to 90 per cent of greenhouse gases, the planet would not be liveable. The Greens like to create the impression that human-induced greenhouse gas is the major problem. But they forget to mention that 85 to 90 per cent of greenhouse gas is actually water vapour. As a person who reads the science on this issue, I recommend that members who want to follow this debate should read this paper.

The Hon. Michael Gallacher: Table it.

The Hon. MICHAEL COSTA: I would be happy to table it. It is a scientific paper, peer reviewed by the Royal Society in Britain, entitled "Experimental Evidence for the role of Ions in Particle Nucleation under Atmospheric Conditions". The principal author is Henrik Svensmark. The paper shows how cosmic rays contribute to the formation of clouds. Although it is a very difficult paper, it is worth reading

The Hon. Melinda Pavey: You have been talking to Rick Colless.

The Hon. MICHAEL COSTA: He has been reading it too, has he?

The Hon. Rick Colless: Yes.

The Hon. MICHAEL COSTA: The problem with the climate change models is that they do not have within them the capacity to model cloud formation and the water vapour component. The Government is committed to reducing greenhouse gases because we believe, for other reasons, it is the right thing to do. But we should not be alarmist, hypocritical and anti-jobs, as the Greens are, when dealing with this matter. [*Time expired.*]

FISH STOCKING PROGRAM

The Hon. MICHAEL VEITCH: My question is directed to the Minister for Primary Industries. Can the Minister update the House on the highly successful fish stocking program in New South Wales?

The Hon. IAN MACDONALD: I thank the Hon. Michael Veitch, who is a very keen angler, for his question. Fish stocking forms a major part of the Iemma Government's commitment to creating sustainable fisheries. For example, about \$1 million from the State budget is allocated in direct government support towards the fish stocking program. I am pleased to inform the House that season 2006-2007 is now complete. It has been highly successful, despite the impact of the drought on large sections of the State. To date, over 3.5 million trout, salmon fry and fingerlings were stocked into New South Wales waters. That brings to about 5.7 million the total number of fish stocked throughout New South Wales. They include familiar names to anglers such as golden perch, Murray cod, silver perch, trout cod, Australian bass, brown trout, rainbow trout, brook trout and Atlantic salmon, all of which make a tasty meal, especially if the fish is caught fresh from a stream in the Snowy Mountains. I have had a tasty meal with a few of the Opposition members over the years.

Recent months have seen some of the largest fish stocking ever undertaken. For example, in April alone about 48,000 golden perch were released in Billabong Creek, north of Deniliquin, 40,000 in Blowering dam near Tumut and 152,000 in Burrinjuck dam near Yass. The success of the fish stocking program comes in

the face of the worst drought in 100 years. Although parts of the State have received some rain in recent weeks, more than 80 per cent of New South Wales is still in drought. While the drought has had some impact on the stocking program, native fish have adapted to conditions over time and I am advised their numbers are quite healthy. My department closely monitors the situation and will only stock impoundments and waterways which are at levels that can sustain fish stocking.

This is a comprehensive program. The fish are produced at New South Wales Department of Primary Industries hatcheries at the Narrandera Fisheries Centre, the Dutton Trout Hatchery at Ebor near Armidale, the Gaden Trout Hatchery at Jindabyne and the Port Stephens Fisheries Centre. Fish stocking provides both social and economic benefits to the broader community. It creates new fisheries and enhances existing ones. Also, it supports some of our most important inland fisheries, such as the Australian bass fishery in Glenbawn dam and our iconic trout fisheries in the Southern Highlands, central New South Wales, the New England tablelands and the Snowy Mountains.

The success of the fish stocking program is made possible through a direct contribution by the Iemma Government and from revenue through the sale of fishing licences. Funds raised from the sale of recreational fishing licences are placed into two trusts, one for saltwater and the other for freshwater. The trusts are overseen by an expert panel and can only be spent on projects to improve recreational fishing. This is a great example of fishing fees being put back into the water for the benefit of New South Wales anglers. Trust funding for fish stocking includes \$335,000 to boost hatchery production to record numbers. The trust has also provided \$230,000 as part of the dollar-for-dollar native fish stocking program. Under this program community groups apply for matching funds to purchase native fish from licensed commercial hatcheries for stocking and restocking of local waterways.

In addition to this commitment, more than \$160,000 is allocated annually to undertake research into the effectiveness of stocking. More than 800,000 Australian bass, Murray cod and golden perch have been stocked by small community groups and fishing clubs this year to date via the dollar-for-dollar program. It is a very cost-effective program involving the community. Unlike the Opposition, the Government believes in sustainable fish stocking, which is reaping real results for the anglers of New South Wales.

THE SPIT BRIDGE AND IRON COVE BRIDGE BUDGET IMPACT STATEMENTS

CHARTER OF BUDGET HONESTY

The Hon. TREVOR KHAN: My question without notice is directed to the Treasurer, Minister for Infrastructure, and Minister for the Hunter. Can the Treasurer say where is there reference in the State Government budget papers to the Spit Bridge widening project, given that the project is not listed in the budget impact statement required under the Charter of Budget Honesty dated 19 March 2007? How much has been budgeted and spent so far on the project? Where are the budget details for the Iron Cove Bridge duplication, and how much has been budgeted and spent so far on that project?

The Hon. MICHAEL COSTA: I will give the honourable member the advice I gave one of his colleagues yesterday: Honourable members opposite should not take questions from the Hon. Greg Pearce.

The Hon. Eric Roozendaal: No, that question was from Duncan.

The Hon. MICHAEL COSTA: It was from Duncan, was it? The member has been set up. What the Hon. Duncan Gay has not told the honourable member is that a budget will be handed down in about two weeks. It is that budget to which honourable members should refer to find any forward investment.

The Hon. Duncan Gay: It is not in the Charter of Budget Honesty. Where is it?

The Hon. MICHAEL COSTA: I will return to the Charter of Budget Honesty. As I said, honourable members will have to wait for the budget, and in the forward statements beyond that, to see how the Government intends to spend its money in the next 12 months. I am amazed at the Opposition's reference to the Charter of Budget Honesty given that it refused to participate in that process.

The Hon. Duncan Gay: Where is it? Tell us where it is.

The Hon. MICHAEL COSTA: I have read it into *Hansard*—it came from KPMG, I think; it was one of those firms. KPMG distanced itself from the Opposition because its costings were so rubbery. Even people

the Opposition was paying to check the costings refused to be a part of it. The interesting part, and I have said this on previous occasions, is that the numbers did not add up to the tune of \$3 billion. Of course, the Government believes that the Opposition was \$20 billion in deficit in its costings. As a result, the Opposition invented a new efficiency measure to make the figures fit. I advise the honourable member to get his questions from someone else. The Deputy Leader of the Opposition is notorious for giving honourable members questions he does not want—

The Hon. Duncan Gay: Point of order: The question was quite specific: it asked the Treasurer to tell us where the project shows up in the budget impact statement.

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

The Hon. MICHAEL COSTA: As I said, the honourable member should be wary. The Deputy Leader of the Opposition has form for doing this. He gives to new members the questions that he knows he will cop a hit on. He has a glass jaw and does not want to take the hit himself, so he gives them to new members. I do not usually give advice to Opposition members, but I do on this occasion. If I were you, I would watch this bloke!

CLIMATE CHANGE ECONOMIC IMPACT

Ms LEE RHIANNON: I direct my question to the Treasurer. Given the revelations on Monday this week by Federal Treasury officials that the Federal Government has done no economic modelling on the effect of climate change or emission trading and the comment of his Federal colleague Wayne Swan that the Federal Government is flying blind on the economic impacts of climate change, will he tell the House what economic modelling the New South Wales Treasury has done on the effects of climate change and greenhouse gas abatement schemes in New South Wales, when these studies were carried out and where the results have been published?

The Hon. MICHAEL COSTA: Again, this is a most idiotic question. I am not saying that the member is an idiot—even though she is—I am questioning the question, which is idiotic. I have given some figures and talked about the global impact of greenhouse gases. We are clearly talking about a global system from which one cannot extract a particular region—and certainly not one derived by historical lines on a map—and try to produce a model. New South Wales Treasury has not modelled the economic impacts of climate change on the State, nor would I expect it to. The suggestion is ridiculous. I take it that the member has read the Intergovernmental Panel on Climate Change report in detail. Being a member of the Greens, she and her colleagues surely would have read it. Have you read it? Of course, they have not. They will not confirm it.

The PRESIDENT: Order! I ask the Minister to address the Chair.

The Hon. MICHAEL COSTA: I am happy to address the Chair, but it is obvious these members have not read the Intergovernmental Panel on Climate Change report, which is supposed to be the bible on climate change. The Greens go all over the country talking about these things, but as I have pointed out previously, they cannot get even basic facts right, such as the fact that Australia contributes only 1.5 per cent of total global greenhouse gases. They cannot even get a basic fact like that right, yet they come into this place and purport to understand the modelling of a very complex phenomenon and expect that modelling should be done on a subregional level. It is ridiculous.

I will explain it to the member. The atmosphere works on the basis that it does not matter where the gases are produced; they go into the atmosphere and move around the globe. That is why we have had phenomena in the past wherein natural CO₂ from a volcano has blanketed the globe even though it has come from a specific location. The question is not only silly but it also shows a lack of knowledge of the issue. This is typical of the Greens; they have latched onto this. It is not about climate change. They should have read the Intergovernmental Panel on Climate Change report. This is the normal anti-capitalist rhetoric that they have gone on with for years. They have latched on to this because it is the latest way they can attack our lifestyle and urban civilisation and try to return us to the Stone Age. We all know they are opposed to farming. In this very Chamber they have railed against commercial farming.

Ms Lee Rhiannon: Point of order: Mr President, I draw your attention to Standing Order No. 65. Clearly an answer must be relevant to a question. The Treasurer has strayed a great distance from the question, which was specifically about what his Treasury is doing about this matter.

The PRESIDENT: Order! I again remind the Treasurer that his answer must be relevant in general terms.

The Hon. MICHAEL COSTA: I am always relevant. But I accept that you want me to be even more specific about this.

The PRESIDENT: Only relevant, Minister.

The Hon. MICHAEL COSTA: Relevant and specific I will be. The Greens have not even had the decency to read the major report—the Intergovernmental Panel on Climate Change report. If they were to look at it, they would see that some of the associated working party documents deal with the very analysis they are talking about. It projects the cost to the global economy of some of these policies. Even the Stern report—which has been criticised by economist Professor Nordhaus because it did not use proper social discount rates to establish the real cost of these reports—questioned the veracity of some of the nonsense that the Greens go on with. Climate change will cost money. [*Time expired.*]

INFORMATION AND COMMUNICATIONS TECHNOLOGY INITIATIVES

The Hon. GREG DONNELLY: My question without notice is directed to the Minister for Regional Development. Will the Minister inform the House about regional initiatives in information and communications technology?

The Hon. TONY KELLY: I congratulate the organisers of the recent CeBIT Australia for producing another exceptional trade fair. These trade fairs are excellent and help to keep New South Wales firmly on the international information and communications technology map. We hear a lot about information and communications technology development and capabilities, but what many people do not realise is how much innovation is being driven by businesses based in regional New South Wales.

The Department of State and Regional Development's stand at CeBIT Australia hosted 18 information and communications technology companies this year. Two of those companies were from regional areas of New South Wales: Timesavers International of Altonville and Enikos Pty Limited of Wollongong. Timesavers International produces software called CyberForceField, which helps protect users of Windows 2000 and XP against known and unknown threats. Enikos operates a digital content building and re-purposing service. This delivers a video streaming experience that combines links to associated materials like websites, ring tones and graphics.

These are just two examples of innovative information and communications technology companies working in our regions. There are many more. New South Wales has clusters of information and communications technology companies working in a number of regions, including Western Sydney, Sutherland, the Hunter, the Illawarra, the Central Coast, and the Coffs Coast. These clusters stimulate networking around regional information and communications technology businesses, building knowledge and creating business opportunities. Clustering allows companies to share resources, identify business and partnering opportunities, and benchmark best practice standards.

The Iemma Government recognises the enormous potential of clustering, and operates a business cluster program that provides tailored, non-financial and financial support to help small and medium enterprises. Assistance is provided to projects, from feasibility planning and industry skills enhancement, to market research and promotional activities. The Illawarra has earned a reputation as a base for new technologies, research and development, and is recognised nationally for its information and communications technology capability. Led by institutions such as the University of Wollongong and its innovation campus, the Illawarra's information and communications technology sector predominantly comprises small businesses. Clusters now allow these small businesses to work together in a competitive, entrepreneurial environment.

A lot is happening in the Hunter as well. The Hunter has an estimated 2,000 people employed in more than 200 information and communications technology businesses. Several thousand more are involved in call centre operations as information technology staff and support workers. The Hunter's information and communications technology industry has strengths in areas such as e-commerce; process control systems for the engineering, manufacturing and mining industries; telecommunications; as well as outsourced infrastructure and system management for small, medium and large corporate businesses. The Hunter's information and communications technology sector is supported by HunterTech, the region's leading information technology

group, and a consortium of about 50 local companies. The New South Wales Government-funded Hunter Economic Development Corporation has developed a Hunter information and communications technology investment prospectus to help promote the region's information and communications technology capabilities and attract investment.

There is even a successful information and communications technology cluster operating in the lovely town of Uralla, in the New England region. More famous for its connection with Captain Thunderbolt, Uralla is embracing the challenges of the twenty-first century and is working with the Government in securing its place in the modern information and communications technology world. It is very satisfying to see these innovative efforts to grow regional information and communications technology industries. The Iemma Government's continued support for the State's information and communications technology sector includes ongoing research and the development of new technologies; the development of innovative start-up companies; identifying export opportunities; and nurturing information and communications technology skills and investment.

COURT OF CRIMINAL APPEAL REGISTRY BUDGET CUTS

The Hon. DAVID CLARKE: My question without notice is directed to the Attorney General, and Minister for Justice. Are budget cuts undermining justice in New South Wales and jeopardising the safety of the community, given the judgment of the Chief Justice at Common Law, Justice McClelland, in the recent Court of Criminal Appeal application concerning convicted baby killer Kathleen Folbigg? What will the Minister do to ensure that the Court of Criminal Appeal is properly funded to discharge its statutory responsibilities, given that the judgment makes it clear that the Court of Criminal Appeal registry cannot do its job properly due to budget cuts?

The Hon. JOHN HATZISTERGOS: An allegation was made about a procedural irregularity in the Kathleen Folbigg trial. At the direction of the Supreme Court, the Sheriff investigated the allegation. As the matter is currently before the court it is not appropriate for me to comment further on this. In the course of dealing with the allegation an issue arose about whether the order of the Court of Criminal Appeal, made on 17 February 2005, had been perfected. An order is perfected when it is entered in the records of the court of trial. If an order has not been perfected, an appeal can be reopened.

On 21 May the Court of Criminal Appeal allowed Ms Folbigg's application to have her appeal reopened. I have asked for a report on why the court's orders dismissing her appeal were not protected at the time Ms Folbigg lodged her application. The court has advised me that as soon as the delay in the Folbigg matter was identified, registry procedures were reviewed and a comprehensive audit of both criminal appeal and trial files was conducted. The court is confident that appropriate practices are now in place to ensure that all trial files are promptly updated to include a record of the Court of Criminal Appeal's orders within seven days of delivery. A number of steps have also been taken to reduce the potential for prejudice in jury trials. For example, the criminal trial courts bench book has been updated to include the additional directions for juries that were recommended by the Court of Criminal Appeal in *R. v Skaf and Skaf*.

FORESTS CARBON STORAGE POTENTIAL

Mr IAN COHEN: My question is directed to the Minister for Primary Industries. Can the Minister inform the House how long it takes for a logged forest to return to pre-logged carbon storage potential? Research has found that 75 per cent of carbon-carrying capacity is returned in no less than 53 years, and that it takes 152 years to return to 90 per cent of pre-logged levels. If old-growth forests are indeed "carbon in the bank", what is the Government doing about financially supporting landholders to maintain old-growth forests and rainforests on private land rather than logging it?

The Hon. IAN MACDONALD: When we are trying to analyse the long-term impact of carbon captured in forest products we have to be very careful indeed. We have done a lot of vigorous modelling in relation to this, and we find that there is a carbon plus. The way in which the question was put seems to assume that when a plantation is harvested the carbon is lost through that act of harvest. If that forest is put into structural timber and other products of that nature, a large percentage of the carbon in the captured form is retained for a very long period. That is why, when we have been doing a lot of this work, we have tried to get the equations correct, so that in terms of greenhouse gas abatement strategies we can get a pretty good handle on the value of the forest in terms of carbon capture.

A lot of work is going on internationally on this very aspect. As Mr Ian Cohen would be aware, there is considerable international interest in the use of forests as carbon sinks. New South Wales was one of the first to

investigate this area and to create an abatement program. It is a very sensible question. In relation to the retention of old-growth forests, I thought Mr Ian Cohen would have been aware of the Native Vegetation Act and the various programs under the Act concerning structural adjustment for environmental factors, for the benefit of people who want to retain the stands of forest in their properties.

The Government has done a lot in this area, and we will be doing even more research on it. Now that there appears to be clarity in relation at least to carbon trading occurring in this country—the precise formula is yet to be determined, after considerable economic modelling to work out what people want to do in terms of targets—this will form part of the work to fully inform businesses and individual farmers of an appropriate abatement strategy that could be applied to our forest assets and their development in the future.

PRINCES HIGHWAY UPGRADE

The Hon. HENRY TSANG: My question without notice is addressed to the Minister for Roads. Can the Minister update the House on the latest works being undertaken to upgrade the Princes Highway?

The Hon. ERIC ROOZENDAAL: The Iemma Labor Government recognises the importance of the Princes Highway as a major road transport corridor for New South Wales. The upgrading of the Princes Highway is the highest road priority for the Government in the Illawarra and South Coast region. In a major boost for the local community, work started on the four-lane upgrade of the Princes Highway between Oak Flats and Dunmore last week. I was joined by the hardworking member for Kiama, Matt Brown, and the new and hardworking member for Shellharbour, Lylea McMahon, who have both worked tirelessly to ensure this project goes ahead, to turn the first sod on the upgrade.

This \$130 million upgrade is part of the Government's commitment to provide new and improved services for working families of the Illawarra. The new highway will link the Oak Flats interchange with the north Kiama bypass. It is the final link, providing a high-standard, four-lane highway from Sydney to south of Kiama.

The 5.5 kilometre project will significantly reduce congestion for tourists and holiday makers during school holidays, weekends and public holidays. The deviation will improve traffic flows for southern motorists commuting to and from Wollongong during the morning and afternoon peak periods. The project will significantly improve road safety by removing a narrow winding alignment without overtaking opportunities. It will also reduce delays, bypassing the railway level crossing at the junction of Shellharbour Road and Princes Highway. The work will include an interchange with Shellharbour Road, which will pass over the South Coast railway line and the new highway.

As part of the project, Shellharbour Road also will be upgraded to four lanes for a length of 1.7 kilometres. This upgrade is great news for the local community of Shellharbour, and the member for Shellharbour, Lylea McMahon, is to be commended for her hard work in this area. The Oak Flats to Dunmore upgrade completes the final section of multi-lane carriageway on Shellharbour Road to provide improved access to Wollongong. In addition to the contract work, the Shellharbour Road between Wattle Road and Cove Boulevard will be reconstructed by the Roads and Traffic Authority. A truck rest stop will also be built, and that will assist truck drivers and improve road safety by providing a safe place for truck drivers to stop, revive and survive.

The Oak Flats to Dunmore upgrade is due for completion in late 2009. The Iemma Labor Government is moving forward with the Princes Highway upgrade. State funding for the Princes Highway has increased 32 per cent to \$49.7 million in this current financial year. The New South Wales Government has spent more than \$505 million since 1994-95, compared with the measly \$39 million spent by the Federal Government over the same period. That means for every dollar the Federal Government spends on the Princes Highway the New South Wales Government spends more than \$13.

The Princes Highway upgrade is progressing well with work already underway on the Northern Distributor extension on the Princes Highway to Bulli. The preferred route is being developed for the Gerringong to Bomaderry upgrade. The Kiama ramps project is progressing well, and that is a direct result of the efforts and hard work of the member for Kiama.

The Hon. Duncan Gay: Point of order: The Minister is misleading the House. It is not the Princess Highway, it is the Princes Highway—it is male and plural. The Minister has not done his homework.

The PRESIDENT: Order! The Deputy Leader of the Opposition is well aware that is a frivolous point of order.

The Hon. ERIC ROOZENDAAL: That is the best they can do. They have been reduced to playing childish pranks. The Roads and Traffic Authority is working through the planning and environmental processes in line with the appropriate government policies.

ST HELLIER'S CORRECTIONAL CENTRE PRISONER DRUG OVERDOSE

Ms SYLVIA HALE: I address my question to the Minister for Justice. Is the Minister aware of the death from a heroin overdose of a prisoner known as "Clarkie" at St Hellier's Correctional Centre? Is the Minister aware that prior to his death the prisoner had overdosed on several occasions? Was the prisoner offered methadone treatment? If not, why is methadone treatment not available to all prisoners in New South Wales' jails who require it?

The Hon. JOHN HATZISTERGOS: I am not going to detail any information relating to the death in custody of an inmate; the matter obviously has to be investigated by the Coroner. Until that process has concluded I do not intend to respond to the question. In relation to methadone: Methadone is available at a variety of correctional facilities, and those sorts of questions should be more appropriately directed to the Minister for Health, who has responsibility for Justice Health.

TRAFFIC OFFENDERS PROGRAM

The Hon. ROBYN PARKER: My question without notice is directed to the Attorney General. Given the comments of the Attorney General in today's Newcastle *Herald* claiming that traffic awareness programs were effective ways of exposing offenders to the impact of their actions and could send a strong message to people about their reckless mistakes, does he support a decision made this week by Maitland Local Court magistrate Stephen Jackson to boycott the traffic offenders program, a decision that is supported by the member for Maitland, Frank Terenzini? If not, why not?

The Hon. JOHN HATZISTERGOS: I have not read the magistrate's comments.

COMPULSORY DRUG TREATMENT CORRECTIONAL CENTRE

The Hon. IAN WEST: My question is directed to the Attorney General, and Minister for Justice. Will the Attorney General advise the House what is the latest information on the Compulsory Drug Treatment Correctional Centre?

The Hon. JOHN HATZISTERGOS: I thank the honourable member for this question on a very important Government initiative. The Compulsory Drug Treatment Correctional Centre, an Australian first, is aimed at breaking the drug-crime cycle. The centre has been operational since August 2006, when it was officially launched by the former Minister for Justice, my colleague the Hon. Tony Kelly. I am pleased to inform the House that I have visited the centre on two occasions since assuming the portfolio responsibility and I am certainly impressed with its operation thus far.

The Compulsory Drug Treatment Correctional Centre is a strict approach that provides a new way of treating repeat drug-dependent offenders. It targets male offenders who have committed multiple offences over a long period to support their addiction and who have failed or never accessed drug treatment. The Drug Court has a role in referring offenders and it monitors their progress. The program has three stages: stage one is closed detention, stage two is semi-open detention and stage three is community custody. There are no contact visits in stage one. Inmates are detained under tight security and supervision and drug tested at least twice a week. They undergo intensive abstinence-based treatment and undertake programs to address their offending behaviour and help them to develop skills to prepare for a crime-free life in society.

In stage two the focus shifts to community reintegration, including better relationships with family members. Inmates reside at the centre at night and are subject to drug testing at least three times a week, but spend time outside the correctional centre in employment, education and approved programs. Stage three involves intensely supervised community custody with electronic monitoring and drug testing, similar to home detention.

The Compulsory Drug Treatment Correctional Centre is part of the Government's longstanding and ongoing commitment to tackle drugs and crime in our community. It is an important initiative because it highlights the fact that a high proportion of offenders who are given a prison sentence or placed on remand have existing alcohol and other drug problems. The Australian Institute of Criminology indicated that in 2005, 42 per cent of detainees in police custody had used drugs prior to their arrest and 67 per cent had obtained illicit drugs in the preceding 30 days. The Department of Corrective Services' biennial drug survey in 2003 found that on reception to prison 78.8 per cent of inmates had used illicit drugs in the six months prior to their current prison term.

The Compulsory Drug Treatment Correctional Centre aims to address offenders' drug addiction and criminal behaviour and provide them with the skills to successfully reintegrate into the community. Through this, the centre program helps offenders to take personal responsibility to lead productive crime-free and drug-free lives. Correctional experts advise that the available research and experience of similar programs internationally indicates that this type of initiative works, especially when the program involves targeted case management, post-release housing, training and entry to the labour market. All of these have been built into our program.

When the former Minister for Justice spoke about the centre in this place last year, the Deputy Leader of the Opposition interjected, asking the question, "Why is this program not in every jail?" I thank the Deputy Leader of the Opposition for his acknowledgement that the New South Wales Government's initiative is an important new direction in breaking the drug-crime cycle. Honourable members will recall that when the Government announced its intention to build this centre in 2003, soon afterwards the Opposition had the idea to do exactly the same thing. Indeed, the Opposition issued a press release duplicating our initiative, which was headed, "Reducing Drug Use in Prison". The Opposition did not want to eliminate drug use because, as the former shadow Justice spokesman stated on 28 October 2003, "You can't have drug-free prisons." I can inform the House that no illicit drugs have entered the centre thus far. The inmates are keeping themselves productively engaged by participating in programs to address their offending behaviour and they are engaging in work and training. *[Time expired.]*

GREENHOUSE GAS ABATEMENT SCHEME

Dr JOHN KAYE: My question relates to the New South Wales Greenhouse Gas Abatement Scheme and is directed to the Minister for Energy. Is it true that a modern coal-fired power station that emits 0.82 tonnes of carbon dioxide per megawatt hour sent out would be allowed to create approximately 0.1 Greenhouse Gas Abatement Certificate for each megawatt hour sent out, so that for every 10 megawatt hours sent out it could profit from the sale of one tonne's worth of carbon dioxide abatement certificates while continuing to emit 8.2 tonnes of carbon dioxide into the atmosphere?

[Interruption]

Is it thus not true that heavily-polluting power stations are being financially rewarded for their behaviour, provided they are less polluting than the pool coefficient average?

The Hon. IAN MACDONALD: I dealt with this in some detail yesterday. But one thing seems to have escaped the Greens in relation to some of these issues—and I will not indulge in the histrionics just displayed by my colleague the Treasurer.

The Hon. Michael Gallacher: He went off like Krakatoa!

The Hon. IAN MACDONALD: I could, but I intend to take a measured course in relation to this. The scheme is about limiting overall emissions. It is about what happens at the end of the day. The Greens constantly confuse the issue because they do not understand that this scheme is about net reduction, overall reduction, not the individual mechanics within each particular certificate that is released. It is the overall impact. The greenhouse gas scheme has reduced greenhouse gas emissions in New South Wales by around 41 million tonnes.

The Hon. TONY KELLY: If honourable members have further questions, I suggest that they place them on notice.

Questions without notice concluded.

OPERATION RETZ

Ministerial Statement

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Justice) [1.01 p.m.]: Operation Retz was set up by the New South Wales Police Force in 2000 to investigate a series of complaints made against former Assistant Commissioner Lola Scott, who had been the commander of the then Endeavour region of the New South Wales Police Force. The complaints principally concerned management issues and treatment of staff. On 9 December 2002 Ms Scott was dismissed. This matter was the subject of a debate and resolution of the House in November 2006. At that time the New South Wales Police Force was concerned that the tabling of an unedited report would jeopardise police informants and would discourage whistleblowers in similar cases from coming forward. Hence the Government backed the police by supporting a motion from Reverend the Hon. Fred Nile that the report be made available only to members of this House. The Government subsequently complied with the resolution.

The Director of Police Legal Services also provided the Legislative Council with additional guidance material and an index of the documentation. I am advised that the Hon. Charlie Lynn was on radio this morning telling all and sundry that at 11.00 a.m. he would move an urgent motion to seek to have the Operation Retz report tabled and generally published. But, alas, 11.00 a.m. came and went and there was no sign of the motion. In the spirit of bringing this matter to a conclusion the Government is more than happy to do what the Hon. Charlie Lynn failed to do.

The Government proposes to table an edited version of the report. I am advised that the unedited version of the report on Operation Retz contains details of internal complainants—whistleblowers—who would be identified by either their name or position. In order to protect the identities of these internal informants, they have been deleted from the Government's version of the report. In order to assure honourable members and members of the public that these are the only deletions from the report, the Government proposes to append a certificate from the Director of Police Legal Services to confirm that that is the case. In addition to these documents, the Government believes the complete story of Operation Retz should be told.

Subsequent to the Operation Retz report being concluded, the Ombudsman investigated this matter and on 30 March 2004 issued a statement of provisional findings and recommendations. This provisional report contains seven recommendations, which, I am advised, the New South Wales Police Force addressed. The Ombudsman went on to release his final report on 19 November 2004. I am advised that an additional four recommendations contained in the final report have also been addressed by the New South Wales Police Force.

The Government therefore proposes to table the Ombudsman's report for the sake of completeness, along with the edited Retz report and the certificate from the Director of Police Legal Services to ensure this House is fully informed. I understand from the comments of the Hon. Charlie Lynn on radio this morning that this is consistent with his public statements.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [1.03 p.m.]: On behalf of the Opposition I welcome the tabling of the documents. I support the deletion of the identities of the people in the report, which was consistent with the Opposition's position on the matter last year. I make a couple of observations about the Attorney General's comments. It is important to acknowledge that all honourable members supported the amendment of Reverend the Hon. Fred Nile to make those deletions, which was considered to be reasonable to ensure a level of protection with respect to the progress of the debate. It is incorrect for the Government to suggest that only the Government backed Reverend the Hon. Fred Nile and the police.

With respect to the quiet attack the Attorney General made on the Hon. Charlie Lynn, this morning at 9.30 a.m., at the request of the Deputy Leader of the Opposition and me, the Hon. Charlie Lynn attended the Wednesday crossbench meeting, where he put his case in relation to this matter being brought on forthwith. A number of crossbench members were concerned about the availability of only one report in the Clerks' office and the fact that the report is quite lengthy. They requested the Hon. Charlie Lynn to give them some time before he moved the motion. He was reluctant to do so because of the urgency of the matter, but he agreed to the suggestion of the crossbench members that the matter be held over until tomorrow. However, it was his intention to bring the matter on forthwith.

It is important to put on the record that for more than six months the Hon. Charlie Lynn has continued to ensure that there is some degree of scrutiny and understanding of this matter. There can be no suggestion that

he dropped the ball this morning at the last moment, as the Attorney General implied. That is incorrect. The Hon. Charlie Lynn has endeavoured to work with crossbench members to ensure there is protection of internal whistleblowers within the New South Wales Police Force, as requested. *[Time expired.]*

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

GUARDIANSHIP AMENDMENT BILL 2007

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Henry Tsang.

Motion by the Hon. Henry Tsang agreed to:

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

Second reading set down as an order of the day for a later hour.

STANDING COMMITTEE ON LAW AND JUSTICE

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

Debate resumed from 30 May 2007.

The Hon. AMANDA FAZIO [2.47 p.m.]: I am a member of the Standing Committee on Law and Justice. Other speakers have gone through this important report in detail and covered different aspects. I shall focus on only one aspect: the failures of the new Commonwealth legislation. Under the Commonwealth's Family Law Amendment (Shared Parental Responsibility) Act 2006, from 1 July this year all parents must attempt dispute resolution before they are permitted to take a child custody matter to court. One exception to this rule is in cases where the court is satisfied that there are reasonable grounds to believe there has been, or there is a risk of, abuse or family violence. But what are "reasonable grounds" and how can they be established?

Studies show that 80 per cent to 95 per cent of women who experience domestic violence do not seek assistance from the police, doctors or services such as women's and family refuges. As family violence generally occurs in private, there are unlikely to be any witnesses other than the couple's children. Further, the new law also raises the spectre of cost penalties against any party who knowingly makes a false allegation or statement in the proceedings. I firmly believe that this provision will only serve to deter women from disclosing family and domestic violence for fear of not being believed and incurring bills they cannot meet. It is a valid concern that between 80 per cent and 95 per cent of women who experience domestic and family violence do not report it to the authorities.

Where does this leave a woman who is the victim of domestic violence and is seeking custody of her children from the Family Court? It probably leaves her at one of the Commonwealth Government's new family relationship centres, where, if she is lucky, the dispute resolution practitioner will recognise that she is the victim of family and domestic violence and that the case is not suitable for mediation. She will have to be very lucky, however, because the evidence shows that while family and domestic violence is a common cause of marital breakdown it is difficult to identify by any screening mechanism.

Research into mediation services in Australia has repeatedly shown that many people who should be excluded from mediation because of violence are not. The most recent research indicates that almost 71 per cent of women find it difficult to disclose domestic violence or child abuse when the opportunity arises, that is, to disclose it to lawyers, counsellors or any other professional.

Screening techniques will need to be able to identify all forms of violence, whether they be physical, sexual, emotional or financial abuse, or stalking, harassment or intimidation. That is why it is essential that staff employed by the Commonwealth Government at family relationship centres and accredited dispute resolution practitioners are well trained and use appropriate screening tools. Without effective screening, battered women will find themselves attempting to negotiate with the man who has beaten them. They will be intimidated, afraid and incapable of arguing their case. The likely result will be custody arrangements that put children at risk. To

date, the Commonwealth Government has provided little information on the procedures to be used by family relationship centre staff when dealing with family and domestic violence.

Further, the States and Territories have had no involvement in the establishment or operation of the centres. Anecdotal evidence is emerging of family relationship centres forcing domestic violence victims to be involved in mediation with perpetrators, and abused children being required to have contact with the person who abused them. This is unacceptable, and we will pursue this issue in the strongest possible terms with the Commonwealth Government. Recommendation 8 of the report suggests that the New South Wales Government should develop protocols for the involvement of the Department of Community Services to assist individuals to prove family violence. The responsibility of the Department of Community Services under the Children and Young Persons (Care and Protection) Act 1998 is to promote and safeguard the safety, welfare and wellbeing of a child or young person.

While one in four reports to the department's child protection helpline concerns domestic violence, the department's responsibility is to protect children exposed to this violence, not to prove in the legal context that the violence occurred. The recommendation would shift the burden of proof from a party to the litigation to a third party—in this case the Department of Community Services. This raises a number of issues. Firstly, proving that domestic violence occurred will require substantial investigation by front-line caseworkers, using time and resources that would otherwise be employed protecting children at risk. Secondly, there are a number of legal limitations to the release of information under the Children and Young Persons (Care and Protection) Act 1998. Under the Act the department cannot release information that may identify a reporter in a child protection matter, and under section 29 (d) a risk-of-harm report or evidence of its contents is not admissible in court proceedings. Therefore, if the only evidence of family violence held by the department is contained in a risk-of-harm report, these details may not be available to the Family Court.

While the Government does not support the involvement of the Department of Community Services in the provision of evidence of domestic violence to the Family Court, it should be noted that a number of other State agencies help women who are seeking to prove violence. The New South Wales Police Force is directly involved in investigating and prosecuting perpetrators, while the Women's Domestic Violence Court Assistance Program is a major service provided to women who are in need of legal protection as a result of domestic violence. NSW Health also helps women to prove domestic violence through access to their health records. Sadly, due to a range of social, cultural, historical and economic factors, Aboriginal families are overrepresented in cases of domestic violence and child abuse. Aboriginal families are also more likely to be one-parent families. This means that the legal changes to parenting arrangements for the children of separated parents will disproportionately affect Aboriginal children.

That is why it is critically important that Family Relationship Centres provide services that support Aboriginal families, particularly with relation to compulsory mediation. Compulsory mediation does not have a strong history in indigenous Australian culture, and there are very few indigenous family counsellors, and no indigenous mediators, who deal with family disputes. Identifying appropriate resources, therefore, will be an issue of sector capacity and funding. The Commonwealth Government has, however, made a commitment to provide additional funds for indigenous services. The House should welcome that commitment. To ensure this funding delivers positive results, the committee also recommends that the Commonwealth introduce key performance indicators that relate specifically to Aboriginal families.

Family Relationship Centres already operate in Lismore, Penrith, Sutherland and Wollongong, and more centres will open on 1 July in Blacktown, Campbelltown, Fairfield, North Ryde, Wagga Wagga, Nowra and Newcastle. The Commonwealth decided the location and opening date of these centres despite little consultation with the State Government. As a result, there has been no opportunity to ensure that the centres are established in areas of disadvantage or where they complement existing or planned State government services. In particular, there are no Family Relationship Centres in western New South Wales or other rural areas, and that will have a disproportionate impact on Aboriginal families. We call on the Commonwealth Government to take this matter into account in the establishment of future centres.

There is no doubt that Family Relationship Centres are placing additional demands on State government services. While the Iemma Government wholeheartedly supports measures that reduce or stop family violence, it must be recognised that the services now being delivered to clients of Family Relationship Centres are being delivered without any additional funding from the Commonwealth. The Commonwealth Government has shown yet again it is prepared to shift the cost of helping the most vulnerable in our society to the States and Territories, even though it has a massive \$13 billion surplus that it will use for pork barrelling in the run-up to this year's Federal election. It is a disgrace.

I can understand the sentiments behind the changes introduced by the Commonwealth. I believe that every member of this House would support the notion that both parents should have responsibility in bringing up their children. I personally have concerns about the concept of shared parental responsibility. I believe it can lead to a reduced quality of life for children as a result of the financial impost on both parents to provide suitable accommodation. For example, both parents would be required to have a property with sufficient bedrooms for the children.

For many families, it is not just dealing with the heartbreak that follows a divorce or separation, it is also coping with the financial strains that are imposed on both parties. Although the sentiments behind the Commonwealth legislation are generally accepted, some of the negative impacts have not been properly considered. I am very concerned that an unintended consequence of the Commonwealth legislation is that the standard of living of children of separated parents will suffer. This issue was highlighted in evidence given to the committee during the inquiry. Children suffer enough emotionally from their parents' separation and the dislocation of leaving the family home and moving into rented accommodation with the parent who has the main custodial responsibility. With the concept of shared parental responsibility, both parents will struggle to provide two family homes for the children. The consequent loss of quality of life and standard of living can have a negative impact on the children, particularly on their education and their ability to perform adequately in this area.

Ms SYLVIA HALE [2.57 p.m.]: The Greens welcome this report. My Federal colleague Senator Rachel Siewert served on the Federal review of the Family Law Amendment (Shared Parental Responsibility) Act and my colleague Ms Lee Rhiannon was a member of the Standing Committee on Law and Justice, whose report we are now debating. The Greens support the conclusions of the tabled report, particularly the focus on moving away from litigation in family matters towards a greater use of and access to family dispute resolution procedures. We share the concern that the amendments to the Commonwealth Family Law Act may result in harm to women and children in New South Wales. Most people would agree that parents should share parenting responsibilities, both when in a relationship and after separation. The proviso is, however, that the interests of the child must at all times be paramount.

The Greens recognise that when both parents are responsible, reasonable people, it can be advantageous for children to spend time with both parents in their respective households. But, in certain circumstances, disruption may occur that is detrimental to the best interests of the child. The causes of such disruption can include severe discord between the parents—especially when children are used as pawns in a conflict by warring parties—the failure by one or other party to uphold agreements, ongoing violence or the threat of violence between parents, and geographic distance between households.

The Hon. Amanda Fazio commented on the financial burden that many households will bear as a result of the shared parental responsibility Act. Equal parenting time works best when the parents live within a reasonable distance of each other. Problems can arise where one parent opts to move, for example, several hours away but insists on maintaining the same level of contact. The child could be obliged to spend a lot of time travelling between households and could be unable to engage in regular weekend activities such as sport.

Violence between parents is obviously disruptive and distressing for a child. The handing over of children between parents is an opportunity for violence to occur, and it often occurs when there has been a history of violence in a relationship. In such circumstances, the assumption that parents are equally entitled to spend time with the child may not be supportable nor in the best interests of the child.

It would be wrong to allow some men's lobby groups to downplay the risk that some men pose to women and children. Such groups contend that men are often the victims of female violence. That assertion is simply neither true nor supported by the facts. Barry Williams, the founder and representative of the Lone Fathers Association of Australia, said when addressing the inquiry conducted by the Commonwealth Parliament's Legal and Constitutional Committee on 3 March:

This government spent millions of dollars on a no violence against women campaign instead of spending the money on no violence against any member of the family. That was an absolute shame and should never have been allowed.

It has caused many people to believe that violence is only contributed on one side, when statistics and female researchers around the world have shown that violence is actually contributed 50-50 by both parties.

That statement is clearly false. Anyone who knows anything about statistics on violence and murder in a domestic setting knows that the vast majority of violent acts and sexual abuses are committed by men against

women and children. If women do murder their male partners, it is usually after they have already suffered extreme violence or are in fear for their life. I take exception to the misleading statement made by the Lone Fathers Association of Australia. There are many horrifying instances in which a separated father has taken out his anger on his ex-partner or on his children. Women and children must be protected from abusive ex-partners.

I welcome the recommendation in the report that the Attorney General's Department monitor the incidence of apprehended domestic violence order applications and the incidence of defended apprehended violence orders, and that the research be used to inform resourcing decisions for State courts and associated support services. Most parents do come to an agreement, but those who cannot come before the Family Court, which usually awards custody to the mother. There are often good reasons for that outcome because, as Ms Hannan from Family Services Australia noted when addressing the Federal inquiry:

The cases that end up in front of the Family Court usually are the ones where there is high conflict, where there has been violence or some sort of issue around them being able to make a clear decision for themselves. They are the cases that we often see in mediation or contact orders programs. The perception that the court has made more orders in favour of women is more to do with the attachment and the primary attachments and who has had the primary caring role prior to separation, and looking at that as a major issue for the children. That certainly needs still to be in the equation when decisions are made.

The submission by Women's Legal Services Australia pointed to an inherent conflict in the Family Law Act; that is, on the one hand it is possible and a good idea to encourage meaningful relationships with abusive parents and, on the other, protecting children from harm from abusive parents is paramount.

The Greens support the report of the Law and Justice Committee and thank the Hon. Christine Robertson and committee members for producing the recommendations. I attended my first meeting of the committee this morning and understand that, unlike some other committees, it is a model of peaceful if protracted dispute resolution. I trust that its recommendations will vigorously pursued and implemented by the Government.

The Hon. JOHN AJAKA [3.03 p.m.]: I speak on the report of the Standing Committee on Law and Justice on the Impact of the Family Law Amendment (Shared Parental Responsibility) Act 2006 not only as a member of the Legislative Council and a new member of the Standing Committee on Law and Justice but also as a lawyer in a suburban firm who has practised family law extensively and, most importantly, as the loving father of six beautiful daughters.

The family is the cornerstone of our community. As policy-makers it is our responsibility to do all we can to foster strong loving family relationships. Obviously there are occasions when the family unit breaks down, and when this occurs it is critical that there are mechanisms in place to help family members work through these difficult times. Importantly, there is a need to prevent a complete breakdown in communication between family members so that a resolution can be found that ensures that the best interests of the child are and remain paramount.

The Commonwealth Family Law Amendment (Shared Parental Responsibility) Act 2006 has the noble intention of protecting the right of children to grow up in a safe environment with the love and support of both of their parents and, importantly, places an emphasis on the protection of children from family violence. The Act came into force less than 12 months ago and, as a result, it is difficult to fully appraise the impact of the Australian Government's noble reforms. The amendments to the Family Law Act recognise that the primary objective when resolving a dispute should be the interests of the child. This is first and foremost.

The Act makes the right of children to know their parents equally and to be protected from harm as the primary factors for the court to consider in deciding the best interests of the child. It also includes new factors for the court to consider, such as requiring the court to take into account parents who fail to fulfil their major responsibilities, such as the failure to pay child support or the continual failure to turn up for contact handover as agreed.

To protect the interests of the child the Australian Government recognised the adverse effects of the excessively litigious nature of family law matters. To address this problem, the Act has put in place a family dispute resolution mechanism that requires parents to make a genuine effort to resolve their dispute before taking the matter to court. Sensibly, there is an exception from this requirement where there is evidence of child abuse or violence. There is also a range of amendments to the counselling and dispute resolution provisions in the Act to support the policy of ensuring that separating and divorcing parents have access to quality family counselling and dispute resolution services.

It is important that the State and Federal governments work together to ensure that families have access to facilities, such as family relationship centres. This is an area that I am sure the Australian Government will address. The State Government also has a responsibility to provide the police with much-needed resources to address domestic violence and assault in the home. If police are not adequately resourced I fear that violence within the home may continue and that we as policy-makers will not have done all we can to protect the rights of the child.

The State Government also has a duty to increase court resources so that apprehended violence orders can be dealt with with increased efficiency. Legal aid must also be available for both the appellant and defendant in family matters to ensure that there is equity and a just outcome is reached. I implore the State Government to consider these matters when allocating funding in the upcoming State budget. I commend the Federal Government for embarking on these important reforms to family law. As I noted, these reforms are new and it is therefore difficult to fully appraise their impact. It is important that we as policy-makers continue to review the legislation and its practical effects in due course. I conclude by congratulating the Federal Government for its noble reforms to the Family Law Act, which seeks to ensure that children have the right to grow up in a safe and happy environment with the love and support of both of their parents.

The Hon. KAYEE GRIFFIN [3.08 p.m.]: I will speak briefly on the final report of the Standing Committee on Law and Justice on the Impact of the Family Law Amendment (Shared Parental Responsibility) Act 2006. I will make a couple of comments about the report and some of the parts of the executive summary relating to family dispute resolution and the presumption of shared parental responsibility. The committee found that there was no coherent strategy assisting families to get the best outcomes from the family dispute resolution process. This is of great concern. One of the committee's recommendations is that the process needs to be further reviewed because it is relatively new. There is a concern about people understanding what the Act entails and what their responsibilities are.

Throughout the inquiry it became clear that there was a general community misconception regarding the legal presumption of shared parental responsibility, and that this misconception may adversely impact upon New South Wales families with regard to parental contact hours with a child. One of the matters that everyone is concerned about is that the child's wishes are paramount in terms of the sorts of things that happen in dispute resolution. Concern has been expressed about the fact that parties may enter mediation under an incorrect assumption that they are required to share their child with their partner for 50 per cent of the time, and that people may feel pressured to agree to equal time arrangements without realising that the presumption of equal shared parental responsibility may not apply in their circumstances and certainly may not be in the best interests of the child.

Concern has also been expressed about what happens when there are other problems, for example, relating to domestic violence incidents, and how that is dealt with in this process. Despite the Family Law Act requiring the best interests of the child to be the paramount consideration, the devil is in the detail, as often happens, and there may be issues that relate to that being somehow subsumed by the discussion that occurs between partners in relation to what happens to the child. Obviously, the best interests of the child should always be paramount. The problem with dispute resolution and mediation is how to move through that very difficult situation and achieve an outcome that supports all family members, to ensure not only what is best for the child or children in this process but also that next step in terms of responsibilities and what happens under family law.

I was not involved in this inquiry, so I can only speak after reading the committee's report, including the comments of the chair and committee members. A great deal of concern was expressed that practical problems are also involved in this process and that the court may not consider them appropriate to take into account. For example, there may be an issue about what is deemed to be substantial and significant time with both parents, whether other issues should be taken into account, such as problems associated with domestic violence and apprehended violence orders, in relation to the costs incurred in trying to resolve these issues between parents, and what happens when there is a breakdown of a relationship.

I think everyone is very supportive of the outcomes that should occur as a result of this inquiry. As has already been said, the legislation is very new and reviews should be undertaken to ensure that the outcomes achieved as a result are appropriate for all parties involved. Obviously, it is an extremely emotive issue for the people involved in trying to work through the breakdown of a relationship and also consider the best interests of any children that may be involved. It is not an easy task to work through some of these problems whilst at the same time looking after the interests of the individuals and families in dealing with a breakdown in relationships.

I commend the committee for dealing with a very difficult issue, taking the stand it has taken concerning the problems associated with family breakdowns, and trying to resolve the myriad problems associated with that. I also commend the committee for recommending that more work needs to be done on some of the issues concerning dispute resolution, and that the legislation needs to be further reviewed because it relates to a new issue. It may be necessary for changes to occur down the track because of some of the problems that might come out of the proposals in the Act and the comments made by the committee. I congratulate the committee chair, the Hon. Christine Robertson, and the members of the committee on dealing with a very difficult issue and making recommendations that will hopefully be beneficial for the future in relation to the ongoing issues addressed by the Act.

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

STANDING COMMITTEE ON LAW AND JUSTICE

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

Debate resumed from 30 May 2007.

The Hon. CHRISTINE ROBERTSON [3.16 p.m.]: The committee considers it inequitable that the full range of community-based sentencing options is not more widely available throughout the State. This inequity impacts not only on offenders in rural and remote areas, who are therefore more likely to go to jail than their metropolitan counterparts, but also on their families and the community. The overwhelming majority of inquiry participants expressed support for expanding community-based sentencing throughout New South Wales. Representatives of the legal profession, community and advocacy groups, government agencies, and members of the public generally concurred that there is great value in community based sentencing and that the options should be more widely available.

In its report the committee expressed the view that the Government needs to make community-based sentencing, particularly in relation to disadvantaged offenders, a priority within its sentencing and criminal justice policies. It is clear that extra resources will be required for community-based sentencing to be made available in a more equitable distribution. The committee therefore recommended that the Government dedicate additional financial and other resources to its community-based sentencing program. While substantial funding would have to be outlaid initially to expand these sentencing options, cost savings would result from the reduced number and cost of the prison population and reduced recidivism.

The committee has acknowledged that insurmountable practical and economic difficulties will prevent complete coverage, especially in remote areas. Nonetheless, the committee has recommended that the Government endeavour, where practical, to make community-based sentencing options available in rural and remote areas of New South Wales. The expansion of community sentencing options cannot happen in isolation. As well as the Department of Corrective Services, other government agencies will also be required to extend programs and services to support offenders serving community-based sentences. Improved coordination of efforts to increase the use of community-based sentencing in rural and remote areas, as well as greater involvement of local government, is required. To this end the committee has recommended that the Government adopt a whole-of-government approach to improve the provision of services and programs to support offenders on community-based sentences in rural and remote New South Wales.

The group most frequently identified as experiencing particular disadvantage in the criminal justice system is Aboriginal offenders. The next most commonly identified groups were offenders with intellectual disabilities or mental health issues, and female offenders. The committee therefore focused its analysis on these three groups. In order to improve the outcomes for disadvantaged offenders effective measures need to be in place at all stages of the justice system, starting with crime prevention. The committee's work examines only a small section of this spectrum but acknowledges the context in which its discussion lies. The lack of availability of the full range of community sentencing options in all parts of New South Wales impacts disproportionately on disadvantaged groups within the overall offender population.

Particular concerns were raised in relation to Aboriginal offenders and female offenders. Where community-based sentences are available, disadvantaged offenders face considerable barriers to accessing those options, including restrictive eligibility criteria and the lack of appropriate support services to assist them to

complete community-based sentences. Offenders with intellectual disabilities or mental health issues were most frequently raised in this regard. The committee formed the view that, where possible, community-based sentencing options should be tailored to meet the needs of disadvantaged offenders, for whom these sentencing options would have the most significant benefits.

For disadvantaged people, the support required to undertake community-based sentences is provided by numerous agencies and the improvement of support services requires a coordinated multi-agency approach. These supports include services for housing and health, and more intensive case management from Probation and Parole Service officers. The committee has therefore recommended that the Government examine ways that a multi-agency approach could be taken to assist disadvantaged people to access community-based sentencing options and to maximise the successful completion of such sentences.

The committee has also recommended that the adequacy of knowledge within the Community Offender Service Division of the Department of Corrective Services regarding the needs of disadvantaged offenders should be assessed. Consideration should be given to whether specialist officers should be employed, or special training delivered to its officers, to meet this area of need. Community service orders [CSOs] are not uniformly available across New South Wales, mainly due to the lack of work placements in smaller communities in rural and remote areas.

Factors influencing the ability or willingness of organisations to offer work placements include their capacity to provide supervision, the costs of equipment, occupational health and safety and public liability concerns, and community reluctance to participate in the community service order scheme. The Committee has made several recommendations with the aim of increasing the number of work placements for community service orders in rural and remote areas. The committee has recommended that the Department of Corrective Services work with the Department of Local Government and WorkCover to assist non-government organisations in rural and remote New South Wales to comply with the occupation health and safety requirements or to alleviate the burden of occupational health and safety requirements for community service order placements.

The committee has recommended that the Department of Corrective Services review its public information concerning community service orders and public liability insurance to dispel concerns about liability. The committee has recommended that the Department of Local Government encourage or assist local councils to participate in the community service order scheme. A community education program about the community service order scheme and the development of initiatives to recognise and encourage the community service order work undertaken by Community Offender Services in partnership with local councils and other community organisations could be effective in increasing the number of work placements available to offenders. The committee has recommended that the Department of Corrective Services undertake such initiatives.

The committee has recommended that the department assist organisations in rural and remote areas with the cost of purchasing equipment for community service order placements either directly or by facilitating assistance from the local business community. The committee has also recommended that the department investigate ways of increasing the involvement of private business in the community service order scheme in rural and remote areas, including seeking consultations with Australian Business Limited and local chambers of commerce.

The availability of community service orders for offenders with disabilities has also been examined. The committee is concerned that offenders with disabilities, particularly intellectual disabilities, are not able to access community service orders as a community-based sentencing option. This problem is particularly acute when considering the benefits of this sentencing option for this group of disadvantaged offenders. The committee is of the view that a specific initiative should be undertaken by the Department of Corrective Services to examine the barriers preventing offenders with disabilities being assessed as suitable for a community service order or for suitable work placements to be identified, and a recommendation has been made to this effect. I will complete this brilliant précis written by the secretariat in my reply. I welcome other members' contributions to this debate.

The Hon. TREVOR KHAN [3.23 p.m.]: I do not intend to speak for too long but I would like to make some preliminary remarks primarily directed towards the Chair of the Standing Committee on Law and Justice. This committee has done tremendous work. I suspect that many people go through their entire parliamentary life wondering what they have achieved. I am sure the Hon. Christine Robertson will now recognise that the work that she and the other members of the committee have done in putting together this report is a true monument to

their dedication, effort and commitment to the community. The report has the capacity to make a difference. One would hope that all reports could be of this quality, but of course they cannot. The report is on an important subject and the Hon. Christine Robertson is to be truly congratulated on her efforts in that regard.

These are matters that have been close to my heart. Some 21 years or so of my practice have been in, I would not necessarily say rural and remote New South Wales, but certainly in northern New South Wales and a large part of that practice has been in the area of criminal law. A large part of my client base has been legally aided and, in truth, has comprised members of the Aboriginal community. My first and abiding recollection is dealing in the children's court with one generation of a particular family. I think I am now up to perhaps the third generation of that family. It is a tragic circumstance to find oneself in.

What one finds is that the level of expectation from so many people of the Aboriginal community is that the legal system will do them in the neck; that they will not receive justice; that they will be treated in a cursory and perfunctory manner; and that they will inevitably end up in jail. Regrettably, in many cases their expectation is well justified. One of the problems for members of the Aboriginal community is that in many cases services from the legal profession are limited. The Legal Aid Commission of New South Wales and the various Aboriginal legal services do their best, but the Aboriginal legal services are inevitably overstretched: they attempt to obtain instructions often on the day in complex hearing matters and many of the solicitors who are working for the Aboriginal legal services are relatively young, inexperienced and certainly overtaxed. Quite frankly, the turnover of solicitors in those services is high simply because of the demands, both physically and emotionally, that are placed upon the practitioners themselves.

As for the Legal Aid Commission of New South Wales, my experience is entirely positive. The commission employs a fine and honourable bunch of lawyers—an extremely capable group indeed. But, in rural and remote New South Wales, they are thin on the ground indeed—if I could use the term. That leads inevitably to the problem that the service that people need is sometimes not as good as those solicitors would like to give simply because of the shortage of their time.

I move on to the substance of the report. Many of the recommendations I wholly endorse. As for community service orders, in some courts they are as rare as hen's teeth. In many cases the lack of supervising officers and the lack of available work inevitably leads to those orders not being available. I make the observation that if one is lucky enough to have a client who is employed and confronted with the option of a community service order, one firstly faces the hurdle of the health of the client as an issue. If one has any indicator of the client having a bad back or a pulled shoulder or the like, one might find oneself ruled out of a community service order. If a client is, for instance, a chef, or someone who will be working on the weekends, one again finds that the community service order will be ruled out because he is in employment.

One finds therefore that one ends up in an escalating circumstance of sentencing options that are available because the lesser sentencing options, such as community service orders, are ruled out by way of employment, for example. It is bizarre that a client may be faced with the prospect of jail because, for instance, a community service order or a periodic detention order is ruled out because of the client's employment, whereas if jail is imposed employment is the least of the worries that one would have. Nevertheless, the availability of community service orders in rural and remote areas is clearly a problem. The Hon. Christine Robertson and her committee are to be congratulated for identifying that shortcoming.

I point out, and the report deals with this as well, that this is an issue of money and service delivery—a matter for the entire Parliament to be concerned about. In many ways this is not a time to score political points. We all have a responsibility to see that people in rural and remote areas, such as my own hometown of Tamworth—which I have never considered to be quite that remote—are entitled to the same level of service as people in Sydney.

I turn now to suspended sentences. The report deals very ably with some of the problems with respect to section 12 of the Crimes (Sentencing Procedure) Act. Often the court will consider the imposition of a suspended sentence and if the sentence is for 12 months, for example, the period of supervision can only be for six months when in many instances offenders would benefit from a longer period. Clearly the Act needs to be amended so that if an offender is sentenced to 12 months, the suspension period could be 12 or 18 months. The report does not deal with a magistrate's inability to impose conditions on the suspension. For example, it may be in the best interests of offenders to be out of the town or environment in which they live or to remain away from their partner, who may be the reason they are before the court. Section 12 should be extended to not only provide the condition of good behaviour, but also to give greater flexibility to sentencing magistrates with respect to the length of suspension of the sentence and other sentences that can be imposed.

The report states clearly that home detention is not available in most areas of New South Wales beyond the metropolitan area. I will not go into the politics of the exercise except to say that we need quality provision of services. We must avoid sending to jail members of the Aboriginal community, in particular, if at all possible. Unfortunately, because of the matters outlined in the report, we are building into the system a capacity for members of the Aboriginal community to fail, and that is not only bad morally, it is also bad for our communities. We are creating divisions within rural and regional communities that are bad for the Aboriginal community, who suffer first, and the entire community. We have a responsibility to ensure the lives of all people are improved. Acting on this report will achieve a great deal in that regard.

The Hon. JOHN AJAKA [3.32 p.m.]: In speaking on the report of the Standing Committee on Law and Justice entitled "Community-based Sentencing Options for Rural and Remote Areas and Disadvantaged Populations" I will not repeat the comments of the Hon. Trevor Khan. I begin by congratulating the committee on an extremely comprehensive report. As a new member of the committee I look forward to contributing to the preparation of other such comprehensive reports.

As a lawyer who has defended many criminal matters I understand the importance of judges having available to them an array of sentencing options. To ensure that judges have a full range of options for determining the most appropriate sentence for an offender, it is important that this report be considered carefully. The report makes it apparent that sentencing options are severely limited in many rural and remote communities. I am concerned that this may result in some form of justice by geography, whereby an offender in Sydney and an offender in Walgett, both of whom may have committed similar crimes and share the same mitigating circumstances, receive different sentences because the judges deciding their cases do not have identical sentencing options available to them.

The offender in Sydney may be the recipient of a periodic detention sentence, whereas the offender in Walgett may receive full-time incarceration because the local prison does not have the facilities available to accommodate people given periodic detention orders. That such a situation could arise is a matter of great concern. Consequently, I implore the Government to acknowledge the lack of resources in our court and jail systems and address this issue.

There has been recent debate about whether periodic detention should continue to be an available sentencing option for judges in New South Wales. I believe that whilst ever periodic detention remains a sentencing option, it is imperative, rightly or wrongly, in the notion of fairness, that it be available to all offenders in New South Wales and that its availability not be subject to the location of the offender or the availability, or lack thereof, of suitable facilities.

Having addressed this concern, I remind members of the continuing need to address the gross overrepresentation of indigenous persons in our criminal justice system. When I read the report I was astounded to learn that 17.1 per cent of people in our prison system identify themselves as Aboriginal, yet Aboriginal people make up only 2.05 per cent of our population. That statistic alone makes it clear that there is still work to be done to address this alarming issue.

Finally, I raise concerns about the ongoing lack of resources for the courts and justice system in New South Wales. The report details a number of recommendations, for which I note in the Government's response there is support. I do not criticise the Government for supporting the recommendations, but I am concerned about the Government's ability to implement them, given the chronic underfunding of the justice system.

Of even greater concern was last week's report that the Government is planning to cut funding for the justice system in the upcoming budget. This comes at a time when the Director of Public Prosecutions is already struggling to meet demands. These further budget cuts will lead to less experienced judges, crown prosecutors and officers in the Office of the Director of Public Prosecutions. The Government should increase funding in the upcoming budget if it is serious about improving the State's justice system.

I conclude by again congratulating the Standing Committee on Law and Justice on this report, and I remind the Government that if it is serious about implementing the recommendations of the report or undertaking other measures to improve the operation of our justice system, it should urgently increase funding to ensure that our courts, their officers and the Department of Corrective Services are properly resourced.

The Hon. LYNDA VOLTZ [3.37 p.m.]: At any one time the New South Wales Department of Corrective Services supervises twice as many offenders in the community than are incarcerated in prison. These

include people given good behaviour bonds, conditional discharge bonds, deferred sentences, community service orders, suspended sentences and home detention orders. I commend the Standing Committee on Law and Justice on its comprehensive report and recommendations. In particular, I note Recommendation No. 21, which states:

That the Department of Corrective Services examine ways of increasing access by Aboriginal offenders to culturally appropriate Community Service Order work placements in rural and remote areas, including seeking consultations with the Federal Government to examine how the Community Development Employment Projects program can be utilised to create Community Service Order work placements in rural and remote areas.

Community service orders are required to perform supervised unpaid work for non-profit or community organisations in local areas. The Government should concentrate on that important recommendation because my experience, particularly with women in Aboriginal communities who have been subjected to domestic violence, has shown that women do not report offenders because they do not want them imprisoned in the New South Wales prison system. It is important that we address community-based detention in order that women can feel safe and confident about reporting offences to police. It is only through the imposition of community service orders that the rate of reporting by women in these communities will increase.

I note that the Howard Government is phasing out community development employment projects. That will have an impact on community service orders and how people are placed. We need to continue to pursue avenues of Aboriginal employment and work with the community to expand options for community service orders. I do not know what plans the Federal Government has for Aboriginal employment programs once the community development employment projects are removed, other than to mainstream Aboriginal employment programs. But that obviously will not work in remote and rural communities. I commend the committee on seeking to work with the Federal Government on this issue, but further consultation with the Federal Government about the future of the community development employment projects is required.

The Hon. KAYEE GRIFFIN [3.40 p.m.]: I note that the Hon. Trevor Khan has already mentioned some matters relating to community service orders. When I was a mayor in local government my council, which was a metropolitan council, used the services of those on community service orders. That was beneficial in terms of some work that the council was unable to carry out on a regular basis. People serving community service orders worked on specific projects. I note that the Hon. Trevor Khan's concerns relate to regional and rural New South Wales, and I accept that there are relevant concerns in those areas. If the community service order scheme worked across the whole of New South Wales, it would be beneficial for everyone in all communities, including those the subject of the community service orders. The report of the committee refers to offenders with disabilities and offenders in remote areas. In some instances we would be much better served if such offenders worked locally and supported their local communities.

Many councils across New South Wales have commented publicly that they need assistance to undertake specific works and projects. We should encourage and assist the Department of Local Government and local councils to participate in community schemes, particularly in areas remote from metropolitan Sydney. It is important to support people who face issues with community service orders and problems with the justice system, as well as the groups identified in the report as "disadvantaged populations". Moving people away from where they live in order that they serve their sentences is not necessarily beneficial. It would be much more beneficial if people carried out their community service orders in their local communities. It would not be easy to achieve that objective, but it is worthwhile pursuing it.

As someone who has been actively involved in local government for most of my working life, I believe that the best way for local councils to achieve that objective is to take the initiative. I realise it would be more difficult to achieve in rural and remote areas because of occupational health and safety issues and other related problems. Councils in metropolitan Sydney encounter the same problems with people serving community service orders, but they are not insurmountable. The recommendations will try to achieve the best outcomes for people in the justice system. It is more appropriate, and would benefit the communities involved in the long term, for people to complete community service orders in their local communities. The best outcome would be for people from disadvantaged populations to serve their community-based sentences in areas in which they feel comfortable, as this would also benefit their communities.

Ms LEE RHIANNON [3.44 p.m.]: I was a member of the Standing Committee on Law and Justice in the previous Parliament. The work undertaken by the committee during this inquiry was useful and productive, for which the committee chair, the Hon. Christine Robertson, should be congratulated. The inquiry was extremely informative. While undertaking this work I was left with the strong impression that people in rural

and remote areas who commit crime have a much more difficult time in terms of sentencing options. The evidence of many people reflected this problem. Magistrates have few sentencing options for people in rural and remote areas, and that has a considerable impact on defendants and the local community.

It is extremely unfair that a range of sentencing options, the majority of which are available to people who commit crimes in the city, are simply not available in rural and regional areas. Clearly, this has an impact on rehabilitation and deterrence. Geographical location is significant in terms of the options available to magistrates. This problem was well set out by Magistrate Heilpern, who talked about the many dilemmas he faces when it comes to sentencing. I will share some of his comments because he certainly put it lot better than I can. He said:

It is unfair to the defendant. After all, I am continually striving in my daily work to be fair to people, and it is simply unfair that a crime committed in Bega has less sentencing options than a crime committed in Manly. It is just wrong. We should have same crime, same time everywhere. That that is not the case means that defendants miss out on the opportunity to have their sentences tailored in the best way for them. That, in my view, is simply unfair. There should not be a geographical basis for sentencing. The basis for sentencing should be rehabilitation, deterrence—all the factors that we have for sentencing, but not geographical location. We all know that prison is an awful place ... No-one, in my view, should be sentenced to imprisonment if there are sentencing options that are suitable for the person but that are not available because of where they live.

The report highlighted that some communities do it tougher than other communities; I refer in particular to Aboriginal communities. Previous speakers have covered this matter in detail. It helps to explain that Aboriginal men, and increasingly Aboriginal women, are overrepresented in our prisons because of the range of options tailored to the needs of Aboriginal communities that are available in rural and regional areas. The lack of sentencing options impacts mostly on young people in Aboriginal communities.

The sentencing options that people in rural and remote areas are missing out on include the Drug Court, the Magistrates Early Referral into Treatment Program, home detention, periodic detention, sex offender programs, the Children's Court, mental health pilot programs and anger management programs. Although a whole range of sentencing options is available, too often prison is the only option for those who commit crimes in regional and rural areas. That fact alone highlights the need for the Government to take this report seriously and fully respond to the clear recommendations. People who gave evidence to the committee outlined the lack of options that are available to magistrates when deciding what sentence to impose.

Again, Magistrate Heilpern summed it up by saying that magistrates deal with the lack of sentencing options by sentencing up or down. By that he meant that when a sentence appropriate to the crime is not available, a magistrate will impose either a heavier sentence, which in most cases is imprisonment, or a lighter sentence. Although a lighter sentence may not be satisfactory, the magistrate will decide, on balance, to err in that direction because a gaol sentence is deemed inappropriate. We cannot compare sentencing in rural and remote areas with sentencing in other areas. We often hear criticism about the decisions of the courts. The inquiry heard evidence from many witnesses about the lack of options and, therefore, the inconsistencies in sentences that are handed down. On that basis, we can understand why there is a lack of consistency.

The lack of sentencing options also highlights the problem of recidivism. It has long been said that community-based sentencing—and I believe it emerged because of this—reduces recidivism by allowing people to stay in their community and be connected with their support network. Obviously, community-based sentencing has an impact by reducing the number of people who reoffend. Although some members in this place have a very different approach from that of the Greens to the type of sentences handed down and the length of gaol sentences imposed, I believe we have a common approach when it comes to stopping people from committing crimes. Clearly, the best way to achieve that aim is to tailor the sentence to the needs of the individual who has offended so that it will lessen the likelihood of that person committing a crime again.

When those sentencing options are not available, the community misses out enormously. A high rate of recidivism costs the State more money and puts a drain on other public services, and people are exposed to more crime. It is not a satisfactory situation. Once again I congratulate the Chair of the committee. It was a most informative experience, working with her and my other colleagues on the committee. We will have to ensure that a range of sentencing options is made available across New South Wales and that the problem of geographic isolation is removed once and for all.

The Hon. AMANDA FAZIO [3.52 p.m.]: I commend the report to the House. I was a member of the Standing Committee on Law and Justice for the duration of the inquiry. My one regret is that as a member of the committee I was unable to attend a visit to Yetta Dhinnakkal at Brewarrina. The committee members who made the trip told me how impressed they were with the range of services provided at that facility. The report is

voluminous because, as the Hon. Christine Robertson outlined, the inquiry, which commenced into back-end home detention, rolled into community-based sentencing in rural and disadvantaged areas. The evidence we received from communities during our visits to the different regions was most impressive. The witnesses put forward a range of opinions, particularly those in Bega. It was very sad to hear about the lack of available community sentencing options merely because of the tyranny of distance.

People who lived closer to Wollongong had the opportunity of weekend detention, but there was no reasonable way for them to get there. Many of them had been sentenced for driving offences, so it was not a matter of them hopping in a car and driving to weekend detention or community service. Transport needs to be made more widely available. I commend the recommendations of the inquiry to the House. Although it is a very large report, by reading the summary of recommendations members will get a good understanding of the issues and the need for people to have access to community-based sentencing across New South Wales. I am heartened by the Government's response to the report, which was positive. I share the concerns of Ms Lee Rhiannon that there are too many people in jail in this State. We must find ways to ensure that people are punished without a custodial sentence.

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

ASSENT TO BILLS

Assent to the following bills reported:

Senators' Elections Amendment Bill 2007
Transport Administration Amendment (Portfolio Minister) Bill 2007
Anti-Discrimination Amendment (Offender Compensation) Bill 2007

MENTAL HEALTH BILL 2007

In Committee

The CHAIR: Order! With the consent of the Committee I propose to put questions on the bill by chapters. There being no objection, I will proceed accordingly.

Chapter 1 [Clauses 1 to 4] agreed to.

Chapter 2 [Clauses 5 to 11] agreed to.

Ms LEE RHIANNON [3.58 p.m.], by leave: I move Greens amendments Nos 1 and 2 in globo:

No. 1 Page 28, clause 53 (6), line 21. Omit "12". Insert instead "6".

No. 2 Page 29, clause 56, lines 14 and 16. Omit "12". Insert instead "6".

Greens amendments Nos 1 and 2 retain the existing six months limit for community treatment orders. The bill extends the period to 12 months. The Greens are concerned about such an extension of time, as I outlined in my speech on the bill. Twelve months is a long time for a person to be subject to a compulsory treatment order. Compulsory treatment orders are a serious intervention on civil liberties. A six months limit would be an important safeguard for patients. I believe that the six months limit was originally put in the legislation to provide protection. It was considered that six months was not an excessive period and treatment could be managed most effectively within that time. The mental health legislation prepared in 1994 for the Australian Health Ministers' Advisory Council provides six months as the appropriate limit for community treatment orders. That clearly underlines why this is a sensible amendment, and one that will bring much greater humanity to our treatment of people with mental health problems. I commend the amendments to the Committee.

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [4.01 p.m.]: The Government opposes these amendments. When the Act commenced operation in 1990, community treatment orders could be issued for only three months. Clinical advice provided after the Act had been in operation for two years suggested that a maximum of 12 months was more appropriate. Changes made in 1997 ultimately extended the orders to six months. Clinical advice and experience of the system remains that orders of up to 12 months are more effective

because they allow greater flexibility by allowing orders of longer than six months to be issued where appropriate.

I emphasise that these changes will not result in all orders being automatically extended to 12 months; that is not the intention of the provision. The aim is to allow flexibility to provide for a longer period between reviews if the patient's circumstances indicate that would be beneficial. The provision will thus address the situation of patients who are stable on medication for a long period and who have been on consecutive orders with little or no change to the term of the orders. Providing for longer orders in such cases will reduce the patient's need to undergo full-scale reviews and avoid the consequential lifestyle impact.

The tribunal also advises that hearings can cause a deal of stress and can result in disestablishment of psychiatric stability. In these cases, to bring patients before the tribunal more often than is necessary can be anti-therapeutic. The tribunal will continue to act on the facts of the case before it. If a shorter term is indicated, the tribunal will have the option to make the order for that short period. As I have already indicated, longer orders will be used only where appropriate. In addition, it should be recognised that a number of opportunities exist for revision or review of orders. A patient may at any time apply for the community treatment order to be varied or revoked. The legislation also includes additional appeal provisions to allow a person to appeal a decision of a magistrate or the tribunal if an order is made for more than six months. For these reasons the Government does not support the amendments.

The Hon. JENNIFER GARDINER [4.05 p.m.]: Likewise, the Opposition does not support the amendments. It believes that the increased flexibility in the provision for a longer period for community treatment orders is beneficial from the patient's point of view.

Question—That Greens amendments Nos 1 and 2 be agreed to—put and resolved in the negative

Greens amendments Nos 1 and 2 negatived.

Chapter 3 [Clauses 12 to 67] agreed to.

Chapters 4 and 5 [Clauses 68 to 139] agreed to.

Ms LEE RHIANNON [4.05 p.m.]: I move Greens amendment No. 3:

No. 3 Page 71, clause 150, lines 11–26. Omit all words on those lines. Insert instead:

- (2) For the purpose of exercising any of its functions (other than in relation to forensic patients), the Tribunal is to be constituted by the following members nominated by the President:
 - (i) the President, a Deputy President or a member who is an Australian legal practitioner,
 - (ii) a member who is a psychiatrist,
 - (iii) a member who (not being an Australian legal practitioner or a psychiatrist) has other suitable qualifications or experience.
- (3) For the purpose of exercising any of its functions in relation to forensic patients, the Tribunal is to be constituted by the following members nominated by the President:
 - (i) the President or a Deputy President,
 - (ii) a member who is a psychiatrist,
 - (iii) a member who (not being an Australian legal practitioner or a psychiatrist) has other suitable qualifications or experience.

This amendment covers the Mental Health Review Tribunal. If it is passed, membership of the panel will remain at three, as provided for in existing sections 264 and 265 of the Act. The bill would allow the tribunal to sit with only one member, and that should trouble members. It would degrade the treatment of mental health in this State. When the Minister responds I am sure he will emphasise that a one-member panel will deal only with minor matters and that this change will make the delivery of mental health responses much more effective. However, there is a serious problem because the Government still has not specified what those minor matters will be.

In addition, international practice clearly states that such tribunals should comprise three people. Principle 17 of the United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care states at paragraph 1:

The review body shall be a judicial and other independent and impartial body established by domestic law and functioning in accordance with procedures laid down by domestic law. It shall, in formulating its decisions, have the assistance of one or more qualified and independent mental health practitioners and take their advice into account.

The Mental Health Coordinating Council states that it is imperative that tribunals reflect a spectrum of clinical, legal and community expertise in all hearings other than for administrative reasons. The Greens understand that this move to allow one-member sittings is supposedly for only administrative and procedural matters, and we agree that there are some procedural matters that would require the consideration of only one member, for example, to reschedule a hearing. However, there is too much discretion in the bill about which matters would be deemed to be administrative. It is too ambiguous, and that is why the Greens have moved this amendment.

The three-member panel is too important a principle to let fall through the cracks. If this amendment is not passed that is effectively what will happen. We could well face a situation in which a three-member panel becomes a rarer event in decision making in this area. The bill should state specific circumstances in which a one-member panel would be acceptable. It does not do that at present, so I have moved this amendment to safeguard the three-member panel. I commend the amendment to the Committee.

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [4.09 p.m.]: The Government recognises that a one-person panel should be limited to minor and administrative matters and that it is important to ensure transparency about the decision-making process in the constitution of panels. I refer the member to the comments made by the Minister Assisting the Minister for Health (Mental Health) and the agreement in principle speech in the Legislative Assembly. The Minister indicated that the Government proposes, in consultation with the tribunal, to develop regulations using the powers in clause 150 (5) to ensure that a full three-person panel hears substantial or contested matters.

This will not prevent the president of the tribunal requiring a three-person panel in other matters, where that is considered appropriate. The regulation will, however, identify certain basic hearings where the skills and qualifications of all three panel members are considered essential. The matters covered by the regulation will focus on hearings involving reviews of detention, applications for electro-convulsive therapy, and decisions in relation to community treatment orders and other medical treatment. The relevant decisions will each need to be fully described, making a regulation the best means of properly capturing each of the various decisions.

The regulations will cover substantial or contested matters—for example, formal reviews of voluntary and involuntary patients, contested matters and electro-convulsive therapy matters. Members should also be aware that the effect of this amendment would be to prevent the tribunal from ever sitting as a one-member panel, no matter how trivial or non-contentious the issue before it is. It is also important to emphasise that these changes do not affect the constitution of the tribunal in forensic matters. The provisions in relation to forensic patients have been retained and will continue to require the panel to be fully constituted by the president or a deputy president, a psychiatrist, and another member suitably qualified in forensic reviews. For these reasons the Government opposes Greens amendment No. 3.

The Hon. JENNIFER GARDINER [4.11 p.m.]: Firstly, I reiterate the Opposition's concerns about these provisions expressed in the other place by my colleague Mr Greg Aplin. That member noted in his agreement in principle speech that the Minister referred to clause 150 and the composition of the Mental Health Review Tribunal. He noted the introduction of some flexibility to allow simple matters to be heard by one legal member of the panel sitting alone. Whilst the Opposition regards that as a sensible move where it is restricted to simple matters, both the Mental Health Coordinating Council and the Black Dog Institute consider that the bill is a little loose in its wording in that regard and that there should be very clear guidelines to define what those procedural matters might be.

We note the comments of the Minister in the other place, reiterated in this place by the Hon. Tony Kelly, that the provisions that would allow a tribunal to sit with only one member will be the subject of further discussion and, of course, regulation. Whilst we do not support the amendment, we will take a keen interest in the formulation and gazettal of the regulations to ensure that the definitions are tight and refer only to minor and procedural matters.

Question—That Greens amendment No. 3 be agreed to—put.

The Committee divided.

Ayes, 4

Ms Hale
Ms Rhiannon

Tellers,
Mr Cohen
Dr Kaye

Noes, 30

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

Mr Kelly
Mr Khan
Mr Lynn
Mr Mason-Cox
Reverend Dr Moyes
Reverend Nile
Ms Parker
Mrs Pavey
Mr Primrose
Ms Robertson
Ms Sharpe

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

Tellers,
Mr Donnelly
Mr Harwin

Question resolved in the negative.

Greens amendment No. 3 negatived.

Chapter 6 [Clauses 140 to 162] agreed to

Chapters 7 to 9 [Clauses 163 to 201] agreed to.

Schedules 1 to 7 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Tony Kelly agreed to:

That the report be now adopted.

Report adopted.

Third Reading

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

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly without amendment.

ADMISSION OF THE TREASURER INTO THE LEGISLATIVE ASSEMBLY

The President reported the receipt of the following message from the Legislative Assembly:

Mr PRESIDENT

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

That the Legislative Assembly invites the Honourable Michael Costa, MLC, Treasurer, Minister for Infrastructure, and Minister for the Hunter, to attend the Legislative Assembly on Tuesday 19 June 2007 at 12 noon to give a speech of unlimited duration in relation to the New South Wales Budget 2007/2008.

Legislative Assembly
6 June 2007

RICHARD TORBAY
Speaker

Consideration of message set down as an order of the day for a future day.

PRIVATE HEALTH FACILITIES BILL 2007**Second Reading**

The Hon. HENRY TSANG (Parliamentary Secretary) [4.26 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech delivered by the Parliamentary Secretary in the other place incorporated in *Hansard*.

Leave granted.

I have pleasure in reintroducing the Private Health Facilities Bill. This bill will promote the health and safety of the public of New South Wales by updating and enhancing the licensing and regulation of private health facilities in New South Wales. Private health facilities in this State generally provide world-class standards of care and treatment. The Government is committed to ensuring that the legislation that regulates such facilities ensures that those standards are maintained and that the public may continue to utilise the private sector with confidence.

This bill was originally introduced as the Private Health Facilities Bill 2006. That bill lapsed on the proroguing of Parliament for the recent election. The second reading speech on that bill provides information on the review of the Act and the major provisions and concepts introduced in the bill. I refer members to that speech for that important background information. The introduction of the bill in 2006 provided stakeholders with an extended opportunity to scrutinise the bill's contents and to raise with the Department of Health any concerns they may have. As a result of that opportunity, the bill I have introduced today includes four amendments to the previous version.

I wish to thank the stakeholders who have taken the time to provide additional comment on the bill, which has resulted in small but, nonetheless, important improvements to the proposed licensing structure. The first amendment is to clause 8, which now provides that when a licence is approved in principle, that approval may be renewed a maximum of six times. The previous bill provided that an approval could be renewed a maximum of four times. Representations from the industry have convinced the Government that, while five years will in most cases be a more than adequate time to complete the development of a facility, certain large and complex developments may take longer. Therefore, it has been agreed that the provision should be amended to allow an approval in principle to run for up to seven years. This amendment provides operators with additional flexibility without affecting the integrity of the planning process.

The second amendment is to clause 29 (1) (a), which provides for the Director General of Health to suspend a private health facility licence in certain circumstances. Private health facility operators have expressed support for the introduction of the power to suspend a licence in appropriate cases. In expressing that support, operators requested that the provision be amended to ensure that a licence could be suspended only when that action was necessary to prevent substantial and serious risk to patient safety. That is an entirely reasonable request, and the provision has been amended accordingly.

I also wish to emphasise that the Government is acutely aware of the impact that suspension of a licence would have not only on an operator's business but also on the livelihoods of the people employed by that operator. I assure the House and operators that in enforcing the provisions of the legislation the regulatory authorities will suspend a licence only when they form the view that patient safety cannot be secured by other less restrictive means, such as the issuing of an improvement notice under clause 52 of the bill.

The third amendment is to clause 39 (4) of the bill, which concerns medical advisory committees. Clause 39 (4) of the previous bill required a medical advisory committee to report to the Director General of the Department of Health any repeated failure by a licensee to act on the committee's advice on certain matters when that failure may adversely impact on the health or safety of patients. Following discussions with industry, that provision has been amended to require notification when the licensee's failure to act on the committee's advice is likely to impact adversely on patient health and safety.

The Department of Health Private Health Care Branch, which administers the regulatory system on behalf of the director general, has advised that this is an appropriate amendment and that it reflects the approach it would expect medical advisory committees to take. It remains, of course, a matter for the medical advisory committee to determine whether a matter is likely to impact adversely on patient health and safety. This amendment is appropriate and recognises that the medical advisory committee's primary function is advising the licensee on clinical governance in a facility.

The final amendment is the deletion of the clause that made provision for the issuing of penalty notices or on-the-spot fines. In the time since the bill was introduced in 2006 the Department of Health has had an opportunity to carefully review the various offences provided for in the legislation. Many of those offences involve serious matters of public health and safety that would be inappropriate to address by way of a penalty notice, which involves no admission of guilt and no public record of any failing or wrongdoing. Other offences in the legislation, such as those that involve the exercise of judgment and for which defences may be raised, are not amenable to the limitations inherent in a penalty notice regime. Therefore, the clause that dealt with penalty notices in the previous bill, clause 54, has been deleted.

Stakeholders have raised a number of other matters concerning the interpretation of various provisions in the bill. I take this opportunity to provide some guidance on those matters. A concern has been raised that the removal of the licensing distinction between private hospitals and day procedure centres should not allow facilities that are currently licensed as day procedure centres to convert to full-service private hospitals in an unregulated and unplanned manner. I am able to give an assurance that that will not be the case. It is anticipated that the licensing standards will provide for a range of service classes and three distinct accommodation classes: day only, overnight recovery, and full-service private hospital.

An operator who wishes to convert an existing day-only facility into one that provides overnight recovery or into a full-service private hospital will be required to make a formal application to the Director General of the Department of Health, who will determine the application based on the legislative requirements, including consideration of any published development guidelines. In terms of the development of planning guidelines, I can give an undertaking that the views of all stakeholders will be sought as the guidelines are developed.

As a final matter, concerns have been raised about clause 62 of the bill, which provides that when a corporation contravenes a provision, each person who is a director of the corporation or is involved in its management is taken to have committed the same offence if that person knowingly authorised or permitted the contravention. This provision does not make directors and managers personally liable to prosecution for breaches of which they had no knowledge. Prosecution of individual directors or managers can occur only in circumstances when they authorised or permitted a breach whilst knowing it to be a breach. Managers and directors who exercise their duties in good faith will not be subject to personal prosecution for breaches by corporate licensees.

The provisions of the Private Health Facilities Bill 2007 provide the framework for an effective licensing and regulatory system for private health facilities in the twenty-first century. I look forward to working cooperatively with the industry and the professions in developing the licensing standards under the revised regulatory framework to ensure that the public of New South Wales can continue to have confidence in the high standards and quality of services provided in the private health care sector. I commend the bill to the House.

The Hon. JENNIFER GARDINER [4.26 p.m.]: The Private Health Facilities Bill 2007 will replace the Private Hospitals and Day Care Procedure Centres Act 1988. Like the Mental Health Bill, which we have just debated, this bill was also introduced into the Parliament at the end of last year, but as the Government was not able to shepherd the bill through at that time it now comes before the Parliament.

The bill removes the current licensing distinctions between private hospitals and day procedure centres. It also removes the current cap on the number of private hospital beds in this State and it gives the Director General of Health the power to approve or reject facility licensing applications on the basis of geographic and/or clinical need, which we believe is a sensible approach. Also, the bill will require licensed private health facilities to adopt the root cause analysis system for major adverse events. That analysis system already applies in the public hospital system, and the bill takes it into the private system as well. The Coalition believes that reports on such adverse events should be made public, and we intend to continue to pursue our policies in regard to quality assurance to make hospitals, both public and private, safer for patients and staff.

The bill also requires licensed private facilities to appoint a medical advisory committee, which we believe to be a good requirement. It provides for greater entry and inspection powers to be granted for government officers inspecting licensed private facilities, and we believe that is in order. Overall, we believe the bill provides for increased safeguards for patients of private hospitals and those who attend day procedure centres because the bill imposes additional requirements for reporting and reviewing incidents.

The bill provides for more structured governance to apply to private hospitals and day procedure centres and increased inspection rights for the relevant authorities to ensure appropriate standards. Overall licensing of private hospitals and day procedure centres will be simplified, which is welcome. The Opposition supports the amendments in the interest of patient care.

Ms LEE RHIANNON [4.30 p.m.]: When one reads the bill one is left with the feeling that health policy in New South Wales is rudderless. There are problems at every turn with this bill. Different rules apply to public and private health facilities. Private day care facilities seem to be flying under the radar of regulation.

The bed cap system for private hospitals is struggling. Instead of increased resources to public health and strong regulation of the private health system we have a hotchpotch of regulation, buck passing and blame shifting between the New South Wales and Federal governments.

The Private Health Facilities Bill tries to plug some of these gaps but it is a mixed bag with worrying implications for public health in New South Wales and for the principle that everyone should have an equal right to health care on the basis of need not ability to pay. The Greens welcome moves in the bill to increase regulation and accountability of private health facilities but are concerned about the impact on the public health system of removing the cap on private health beds in New South Wales.

The bill imposes a more stringent regulatory framework on private health facilities. It increases safeguards for private patients through an increased reporting regime and review of incidents. More importantly, the bill drops the distinction between private hospitals and private day care facilities and applies the same regulation to both. Over the last decade private day-stay health facilities have blossomed and regulation has lagged behind these developments. Bringing private day-stay facilities more fully under the umbrella of regulation is well overdue.

The Greens support measures in the bill to give greater power for officers to enter and inspect premises where there is suspicion that unlicensed premises are operating. We also support measures that introduce root cause analysis to private health facilities to investigate adverse events. This is best practice in the public health system. We support measures in the bill to appoint a medical advisory committee at each facility that is independent and accountable, but the Greens are concerned that aspects of the system are based on self-regulation. For example, on my reading of the bill, investigations into so-called adverse events would be undertaken by the health institution itself, not an independent or government body. For obvious reasons this rings alarm bells.

Similarly, the bill imposes licensing standards for private health facilities but, as with so many bills with this Government, we do not know what those licensing standards will be. The detail of the bill comes in regulations and, as we know, they will not come back before the Parliament for debate. Shoving the important detail of bills into as yet undecided regulations is no way to run a democracy but, unfortunately, it has become a characteristic of how the Government manages its work in so many areas.

My office has had representations from the health sector wanting more details on these licensing standards. In particular, the bill adds a category of private health facilities known as overnight recovery facilities. What are the industrial requirements of this new category? Will registered nurses be required for the class? What staffing requirements and conditions will attach? The Minister has a duty to respond to this in his reply.

The bill seeks to remove the cap on the number of private hospital beds in New South Wales. Instead of a cap on private beds, the director general would be given the discretion to approve new licences for private health facilities based on an assessment of the medical need in a geographical or clinical area. This change could send public health down a very precarious path in New South Wales. The bed cap system in its current form in New South Wales is struggling, to say the least. The Greens recognise that it is a blunt policy tool with too many loopholes and that it is in need of serious reform.

In particular, the cap or limit on bed numbers has not been uniformly applied in New South Wales and private hospital operators have been allowed to operate with a substantial number of beds held in reserve. Similarly, leaving out private day-stay facilities from the bed cap system has led to a large increase in the number of private day-stay facilities in areas of need such as the Tweed. The system is groaning under the weight of the increased number and complexity of day-stay procedures. The downside for patients is that they may not be sufficiently monitored or are discharged before they are ready to go home. Clearly, something needs to be done but is it the entire concept of the limit on private health beds in New South Wales? Surely the answer is not to throw out the bed cap system with the bathwater.

The bill makes it easier for the Government to allow private hospital operators the flexibility to meet health needs in the community. But what is the role of the public health system in this mix? Will public health be undermined? Barely three months ago the Iemma Government went to the election saying, "Vote 1 ALP for public health and public education". I did not hear a slogan: Vote 1 ALP for removing the limit on private beds in New South Wales. They were silent on that matter.

If there is an identified medical need in any area, should not the Government put more resources into public health? How will the bill impact on the provision of new public facilities and the maintenance of existing public facilities in New South Wales? Will this move entrench a quasi public-private partnership model of health service provision? I have not yet heard one Government member talk about the impact of this bill on public health. The new system will give the director general discretion to approve private facilities on the basis of medical need. How exactly will the director general judge whether private facilities are in need? Again we are promised that guidelines will be published at a later date, but exactly how will need be measured?

Like it or not "need" is not an objective equation. In the context of the Howard Government's private health insurance rebate, need is now a function of the perverse subsidies given to private hospitals that force people into the private health system. Granting the director general this level of discretion is typical of the *modus operandi* of the Iemma Government. In the same way that part 3A planning powers afforded to the Director General of Planning are continually enhanced by regulation, so too the Director General of Health is being granted the power to reshape the balance of public and private health service provision in New South Wales. The Greens are concerned that, in the same way that terrible planning decisions have been made under part 3A of the Environmental Planning and Assessment Act, this bill may not roll out better planning for health in New South Wales but will, in fact, facilitate a discretionary grab bag of decisions that favour private health companies. Indeed, what will be the public benefit of this new system to people who cannot afford private health insurance in New South Wales?

Will people in areas of medical need be able to access these new private facilities on Medicare? Will the licence conditions for new private facilities require a certain number of "Medicare only" community beds and procedures in private facilities? Sadly, I do not think so. The system will lack fairness. John Dwyer, Founding Chairman of the Australian Healthcare Reform Alliance and Professor of Medicine of the University of New South Wales, in a recent speech stated:

Our health care system is increasingly unfair ... We have moved away from that ideal which I believe most Australians very much want, the ideal of having access to a quality health care system, in a timely fashion, based on need not personal financial circumstances. Increasingly people cannot afford to see allied health professionals. Increasingly people are denied access to specialist medical care because of the costs involved and increasingly they are being seen by general practitioners who are being forced ... to spend only a small amount of consultation time so that the turnstile can click through and they can earn enough money to keep things going.

Sadly, health outcomes in New South Wales are increasingly based on ability to pay. In Western Sydney people are five times more likely to die of a preventable illness than they are on Sydney's North Shore. What an indictment! In country New South Wales people are eight times more likely to die if they are white and 20 times more likely to die if they are indigenous. That is appalling. Successive governments have let the system deteriorate. I have been critical of the Labor Government in this speech, but successive Coalition and Labor governments bear the responsibility for this appalling state of affairs. New South Wales needs a better resourcing of public health, not a bill that makes it easier for private facilities to plug the gap.

Reverend the Hon. FRED NILE [4.40 p.m.]: The Christian Democratic Party supports the Private Health Facilities Bill, which provides for the licensing and regulation of private hospitals and other private health establishments that admit patients for treatment. Importantly, the bill also tightens up the provisions relating to activities of day procedure centres, which were identified separately in the Private Hospitals and Day Procedure Centres Act. For some time I have been concerned about the operation of day procedure centres, particularly those that, according to various reports from women, act irresponsibly when they carry out abortions, which are probably illegal but are openly advertised and carried out. It is necessary—and I trust it will happen with the increased regulations in this bill—to ensure that day procedure centres have staff who are properly qualified, the doctors and the nurses, and that they provide proper counselling and preparation of patients for whatever treatment they receive, particularly if it is an abortion.

Some years ago I moved a bill to close day procedure centres specialising in abortions but the bill failed to pass through the House. Perhaps it is time to review that situation. This bill requires the operations of private health facilities to be licensed by the Director General of Health. We support that because it will pick up all the different activities carried out, as I said, not only in hospitals but also in day procedure centres. The bill removes the current numerical cap on the number of private hospital beds in New South Wales. Hopefully, the efficient operation of private hospitals and other facilities will be tightened by requiring all licensed facilities to appoint a medical advisory committee to take a broad clinical governance role within the facility. We have not had many disasters in New South Wales hospitals recently, but there have been some in Victoria. It is important to have a body carry out that supervisory role. For those reasons we support the bill before the House.

The Hon. HENRY TSANG (Parliamentary Secretary) [4.43 p.m.], in reply: I thank honourable members for their contributions to the debate. Honourable members are aware of the important role that private health facilities play in the New South Wales health system. Accordingly, it is essential that there be a robust regulatory system to ensure that high standards of patient safety are maintained within the private sector. Ms Lee Rhiannon raised a number of issues, and I will respond to each of those matters in detail. The first issue is the matter of planning controls, that is, abolition of the bed cap. The Private Hospitals and Day Procedure Centres Act 1988 imposes a statewide cap on the number of private hospital beds. This is achieved by providing that the Director General of Health may refuse an application for a private hospital licence if granting of the licence would result in an increase in the number of patients who can be accommodated overnight in private hospitals in New South Wales.

The existence of the bed cap has resulted in the evolution of a market in private hospital beds whereby operators who have been granted bed approvals can sell those bed approvals to other operators who wish to establish a new hospital or expand an existing one. The bed cap does not allow for the Director General of Health to control the type of private hospital service or its location. The proposed planning mechanism by which the director general can refuse to grant a licence if it would result in more than an adequate number of health services becoming available in a clinical or geographical area provides the director general with a power to plan for a logical and coordinated expansion of health services, both public and private, in the State.

The planning process will apply to all licensed private health facilities, not just full service hospitals, and will ensure that inappropriate or unnecessary facilities are not developed. Assessment of applications against the planning guidelines will be done in an open and transparent fashion, with the basis of decisions being planning guidelines approved by the Director General of Health and published in the Government Gazette. Applicants who are refused a licence will have a right to appeal that decision. The planning process will not be used as a means to inappropriately restrict the activities of the private sector and is unlikely to impose any additional burden on applicants as operators already undertake comprehensive business planning exercises as part of the process of raising capital for their developments. The planning guidelines will be developed in consultation with all stakeholders, including private operators and their association.

Ms Lee Rhiannon also raised the issue of licensing standards. The licensing standards will comprise a crucial aspect of the overall regulatory scheme in that they will address day-to-day operational matters where regulation of those matters is required in the interests of patient safety. Licensing standards will be made by regulation. The regulations will be the subject of detailed consultation with stakeholders, particularly industry. The regulations will also be the subject of a regulatory impact statement that will, in accordance with the requirements of the Subordinate Legislation Act, be released for the purpose of public consultation. These matters have already been the subject of discussion with industry, which has expressed its satisfaction with that approach.

The third issue raised by Ms Lee Rhiannon is that of accommodation categories. It is anticipated that the licensing standards will make provision for three accommodation categories: day stay only, extended overnight recovery and full service private hospital. A different set of licensing standards will apply to each accommodation class. Clearly, more comprehensive standards will be required of private hospitals than of extended overnight recovery facilities. Similarly, the licensing standards for extended overnight recovery centres will be more detailed than those for day only facilities. The provisions in the bill are flexible enough to allow for the development of additional accommodation classes in the future should clinical and operational developments within the private health facility industry warrant it.

The final issue Ms Lee Rhiannon raised was the impact on the public sector. There is not expected to be any significant impact on the public sector as a result of this legislation. Private hospitals have been operating in New South Wales for 100 years and nothing in the Private Health Facilities Bill will change that fact or the way the public and private sectors interact. I have no doubt that the public and private sectors will continue to work together in a co-operative manner to deliver the best possible health outcomes for the people of New South Wales. The Private Health Facilities Bill 2007 provides the basis for that robust regulatory system, whilst also providing flexibility to allow the development of the private sector in a manner that meets the needs of the people of New South Wales. 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. Henry Tsang agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly without amendment.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION AMENDMENT BILL 2007

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [4.51 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.

The Births, Deaths and Marriages Registration Amendment Bill provides for amendments to the Births, Deaths and Marriages Registration Act 1995, an Act which established a civil system for the registration of births, deaths, marriages, changes of name and changes of sex in New South Wales. The Act also regulates the keeping of registers for the recording of such information, access to the information in the registers, and the issue of certified information from the registers. Historically, the New South Wales Act has been the model legislation for other jurisdictions. State and Territory registrars of births, deaths and marriages coordinate their policies and procedures through the Council of Australasian Registrars. This aims to ensure that a consistent approach to registration is maintained throughout Australia.

The New South Wales Registrar is currently the chair of the Council of Australasian Registrars. It has been several years since the Act was introduced. In those years there have been major developments in a number of areas, which this bill aims to address. I refer, first, to the aim of maintaining the integrity of the register. Item [1] of schedule 1 to the bill creates a new function of the registrar under section 6 to maintain the integrity of the registrar and to endeavour to prevent identity fraud associated with the register and documents issued from the registrar. This recognises the registrar's important role in identity security and identity management. The registrar administers the registers from which key proof of identity documents, such as birth and marriage certificates, are issued.

The amendment recognises the increased risk of identity-related crime in recent years and is consistent with Australia's efforts to develop a national identity security strategy. The development of a national identity security strategy is an initiative of the Council of Australian Governments and is being led by the Commonwealth Government in close consultation with the States and Territories. New South Wales is actively participating in the development of measures to combat identity fraud and better manage identity security risk. At the State level the Attorney General's Department chairs an interdepartmental working group that meets regularly to discuss matters relevant to identity security and identity management. The Registrar of Births, Deaths and Marriages is a key member of this working group. The amendment will require the registrar to continue implementing and improving operational policies and systems preventing the information on the register from being used fraudulently.

Item [2] of schedule 1 to the bill amends section 12, reducing the period within which responsible persons—meaning hospitals, midwives and attending doctors—must notify the Registry of Births, Deaths and Marriages of a live birth from 21 days to 7 days. The reduction of the notification period will improve the reporting of births in New South Wales and, therefore, improve the accuracy and completeness of the registry's birth information. This amendment implements the Coroner's recommendation following the inquest into the disappearance of baby Tegan Lane, that is, that the Government introduce legislation to place greater responsibility on hospitals and midwives to report births to the registry. The amendment will also make the New South Wales time frame for reporting births more consistent with other jurisdictions' notification time frames. NSW Health, the Australian Private Hospitals Association, Catholic Health Australia Incorporated and the Australian Society of Independent Midwives have been consulted on the shorter notification period. These organisations have indicated that they will cooperate with the registry to implement the operational changes necessary to comply with the reduced reporting time frame.

The registry is currently working with these bodies to implement an electronic notification system. The registry has been working with midwives associations, private hospital associations and NSW Health to improve the timeliness and the quality of birth reporting across New South Wales. For example, the registry is piloting a new electronic interface for birth notifications within the Prince of Wales Hospital at Randwick. The web interface is currently being rolled out to private midwives and other private hospitals. Work is also under way with NSW Health to improve the quality of data the registry receives from public hospitals. Public and private hospitals will need to make changes to their information technology systems in order to comply with the shorter reporting time frame. To allow adequate time for implementation, the Government proposes to commence item [2] by proclamation. The remainder of the bill will commence on assent.

Item [8] of schedule 1 to the bill makes it clear that the shorter notification time frame will apply only to births occurring after the commencement of the proposed amendment. Items [3] and [4] of schedule 1 to the bill amend section 28 to provide that a child's primary care giver, rather than the child's guardian, may apply for registration of a change of the child's name. The meaning of "primary care giver" is based on the definition in section 1 of the Children and Young Persons (Care and Protection) Act 1988.

"Primary care giver", in relation to a child or young person, means each person who is primarily responsible for the care and control, including the day-to-day care and control, of the child or young person, whether or not that person is the person with parental responsibility or care responsibility for the child or young person. This amendment is needed because the term "guardian" is not defined in the Act and is outdated in the context of children. By creating consistency with the terms used in child protection legislation, it will be clear who can apply for a change to a child's name.

Item [5] of schedule 1 to the bill inserts a new section 55A to clarify the registrar's ability to collect and maintain separate records of information relating to registrable information. It allows the registrar to provide additional services in relation to that information and other information in the register, such as the provision of historical and genealogical information. The registrar might also, for example, record the location of wills and issue certificates in relation to the location of wills. A charge for such additional services may be determined by the registrar or might be fixed or determined in accordance with the regulations. The amendments proposed in this bill will improve the New South Wales civil registration system and ensure it continues to meet the needs of our community. I commend the bill to the House.

The Hon. JOHN AJAKA [4.51 p.m.]: The Births, Deaths and Marriages Registration Amendment Bill 2007 seeks to amend the Births, Deaths and Marriages Registration Act 1995 to enable the New South Wales Registrar to maintain the integrity of the register, as well as give the registrar new powers to provide more registrable information, such as historical and genealogical information and the location of wills. The bill also reduces the time limit to notify the registrar of a birth to seven days, in lieu of the existing period of 21 days. The bill also changes the definition of persons to harmonise with the definitions in the Children and Young Persons (Care and Protection) Act 1988. The Opposition does not oppose the bill.

The Births, Deaths and Marriages Registration Act established a system for the registration of births, deaths, marriages, changes of name and changes of sex in New South Wales. Unfortunately, a small number of people in New South Wales have attempted to undermine the integrity of the register through theft and identity fraud. As a result of the challenges faced by our society by identity fraud and the need and demand for up-to-date information, it is necessary to amend the Act. The bill, therefore, seeks to amend the Act to enable the registrar to maintain the integrity of the register by preventing identity fraud. I should also draw the attention of the House to item [5] of schedule 1, which enables the registrar to collect and maintain separate records of information relating to registrable events and allows the registrar to provide additional information services for a charge, as determined by the registrar, or determined in accordance with the regulation.

While these increased powers will help provide more registrable information, such as historical information, and will assist in the location of wills, it is important to note that the increased powers of the registrar need to be balanced with the need to protect members of the community from an overly invasive form of government. As a Liberal I value freedom from government intervention in everyday life and have considered this point carefully in my review of the bill. As I mentioned earlier, the bill reduces the time afforded to responsible persons, namely hospitals, midwives and attending doctors, to notify the registrar of a birth from 21 days to 7 days. This change is in accordance with the recommendations of the Coroner following the case of the disappearance of baby Tegan Lane.

It is, of course, imperative that persons responsible for appropriate notifications to the registrar adhere to the period of seven days. This amendment does, however, bring with it the need for hospitals to upgrade their information technology facilities so that they can use an electronic notification system, which is currently being implemented. It is imperative that the Government adequately resource our State's hospitals to implement the necessary upgrades. I am particularly concerned that the need to upgrade information technology facilities may drain resources from the front line. I urge the Government to ensure that this is not the case.

Finally, the bill seeks to amend the Act to allow the primary care giver, rather than the child's guardian, to apply for the registration of a child. This is a sensible amendment as it will harmonise the terminology used in the Act with the terminology of the Children and Young Persons (Care and Protection) Act 1988. The term "primary care giver" is more appropriate in that it ensures the person who is actually responsible for a child's care is also responsible for registering the birth of that child, thereby removing any ambiguity in cases where the child's parents have sadly passed away, are missing or cannot exercise their traditional parental responsibilities for whatever reason. I indicate, as I did earlier, that the Opposition does not oppose the bill.

Reverend the Hon. FRED NILE [4.56 p.m.]: The Christian Democratic Party supports the Births, Deaths and Marriages Registration Amendment Bill 2007. In 1995 the original bill established a civil system of registration for births, deaths, marriages and name changes in New South Wales. I put on record that I have always been impressed with the efficiency and cooperation of the Births, Deaths and Marriages registry office. This bill inserts a function for the registrar to maintain the integrity of the register and to seek to prevent identity fraud associated with the register and documents issued from the register. There have been increasing attempts

by criminals to forge birth certificates in an endeavour to establish a new identity and cover up their criminal activity. Identity security is an area that needs to be strictly maintained and observed.

The bill will reduce the period within which hospitals, doctors and midwives must notify the registrar of a live birth from 21 days to 7 days. This amendment has been made as a result of the inquest into the disappearance of baby Tegan Lane. There was even doubt whether the baby existed. Was there a baby or not? In that matter there seemed to be a lack of cooperation from the mother and other individuals. I am pleased that the time limit has been reduced to seven days. However, I believe the regulations should be worded so that notification is made no later than seven days. I do not see any reason why hospitals should wait seven days to notify a birth. If they have seven days to notify, they may wait until the seventh day. There is nothing more important than the birth of a baby, a new life. The information about the birth of a baby should be communicated as an automatic procedure. A system should be in place where the baby is born and the birth is immediately notified to the registry. A period of seven days may encourage notifiers not to notify immediately because they think they have plenty of time and do not have to rush. Therefore, the amendment should be that notification occurs no later than seven days.

The bill provides that a request to register the change of a child's name can now come through a "primary care giver". I recognise that that term is now widely used. I assume this amendment relates to cases where the father and mother are deceased and the primary care giver, who may be a grandparent, requests the name change. However, it should be made clear that if both the father and the mother are alive they should be consulted. Further, if the mother wants to change the name, the father should be consulted. The change of name should require the agreement of both parents, if possible. I know that may be difficult in some circumstances, such as a bitter divorce. But the agreement of both parents should be the desirable aim. The Christian Democratic Party supports the bill before the House.

The Hon. TREVOR KHAN [5.00 p.m.]: I expect that over time the Hon. John Ajaka and I will become known as the "Bobbsey twins". I refer to the contribution made by Reverend the Hon. Fred Nile and the issue of identity fraud, which is neither new nor increasing. Some 10 to 15 years ago in the remote village of Tamworth a superannuation agent decided upon a scheme to increase his commissions. I recall that at that stage agents received 150 per cent of the first year's contributions up front as commission on a superannuation policy. The agent visited all the local cemeteries, identified people of a suitable age, obtained birth certificates, took out the policies himself, paid the first premium, received the commission and forgot to pay the balance. It was quite a good scheme while it lasted.

The Hon. Rick Colless: Is he in the same place now?

The Hon. TREVOR KHAN: The superannuation company finally discovered the scheme after six to nine months but it did not take the matter to the police because it was so embarrassed by its own stupidity. Nevertheless, it is an indication of what can and does occur. Of course, steps have been taken to make such activity more difficult, but those of us with teenage sons know that there is a certain trade in birth certificates to enable certain people entry into licensed premises. Identity fraud of one kind or another continues.

Although the Opposition supports the legislation, it is unclear what is intended by it. Plainly, one issue is that although entries are made on the register with respect to births, for instance, there is no crosschecking for subsequent deaths. One would have anticipated that section 49, which deals with the issue of certificates, would have been amended to provide that in the case of, for instance, a birth or marriage certificate being issued and a subsequent event occurring, such as a death or divorce, certificates are suitably amended to reflect there was a birth and a death as opposed to merely a birth. That would put a stop to one opportunity to commit identity fraud. Of course, that is a matter for the Government, not the Opposition, but it is a self-evident measure and it would overcome the problem.

The bill does not deal with trade in certificates that have already been issued. There would be hundreds of thousands, if not millions, of birth certificates floating about. While there may now be much stricter procedures in place for the issuance of such certificates, no restriction is placed on the many certificates that have already been issued that can be used from time to time by persons who do not have a legitimate reason to use or own them to create additional identities. At some point the Government must look at creating a use-by date for certificates to ensure that those already issued have a limited life. If such a measure were introduced, it would ensure that existing certificates are used only for their intended purpose. Beyond that, this is important legislation. It would have been nice to see it earlier and to know that adequate funds will be provided for the registrar to undertake the additional functions required. I support the bill.

The Hon. HENRY TSANG (Parliamentary Secretary) [5.05 p.m.] in reply: I thank honourable members for their contributions to this debate. The amendments in the bill ensure that the New South Wales civil registration system remains relevant and responsive. The registrar will now have an express function to maintain the integrity of the register and to endeavour to prevent identity fraud associated with the register. The obligation of hospitals, midwives and attending doctors to report births will be strengthened. Replacing the term "guardian" with "primary caregiver" makes it clearer who may apply to register a child's change of name if the child's parents are dead, cannot be found or for some other reason cannot exercise their parental responsibility.

In response to the Hon. John Ajaka's question about the cost of information technology upgrades, I assure him that it will be covered by the existing information technology budget and no money will be diverted from front-line health services. In response to the second question raised by the Hon. John Ajaka's twin brother, the Hon. Trevor Khan, about integrity fraud, protecting the integrity of the register and seeking to prevent identity fraud associated with the register and documents issued from the register is implicit in the legislation. The registry already has an access policy restricting the issue of certificates to those immediately concerned with the particular registration record. There is also a proof of identity policy that requires applicants for certificates to provide documentary evidence to support proof of their identity. The registry has had a change of name policy for many years. That policy has restricted the frequency and number of times people can change their name.

Together, these policies minimise stolen identities, also known as "identity theft". In addition, when a birth certificate is being sought an automatic search is made of the death database. This process seeks to prevent identity theft by use of a deceased person's identity, also known as "tombstone identities". The registry will have a legislative database to maintain separate records of information that is useful or incidental to the registrar's work and to provide additional services in relation to the information it keeps. The community will benefit from the amendments in the bill and I commend it 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. Henry Tsang agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly without amendment.

TERRORISM (POLICE POWERS) AMENDMENT (PREVENTATIVE DETENTION ORDERS) BILL 2007

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [5.09 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.

The Government is pleased to introduce the Terrorism (Police Powers) Amendment (Preventative Detention Orders) Bill. The bill proposes amendments to the Terrorism (Police Powers) Act to ensure that the Crimes (Administration of Sentences) Act and the Children (Detention Centres) Act, as the case may be, apply to persons detained in custody subject to a preventative detention order under the Terrorism (Police Powers) Act. In September 2005 a special meeting of the Council of Australian Governments on counterterrorism was held. At this meeting Commonwealth, State and Territory governments agreed to enact legislation to implement preventative detention orders to prevent terrorist acts or to preserve evidence relating to terrorist acts. State and Territory governments agreed to enact legislation providing for preventative detention for up to 14 days. As a result of constitutional constraints, the complementary commonwealth legislation provides for preventative detention for up to 48 hours only.

In December 2005 the Terrorism (Police Powers) Amendment (Preventative Detention) Act, which introduced part 2A—preventative detention orders—into the Terrorism (Police Powers) Act came into effect. Part 2A of the Terrorism (Police Powers) Act enables a designated New South Wales police officer to apply to the Supreme Court for a preventative detention order to enable the preventative detention of a person aged 16 years or over for up to 14 days in order to prevent an imminent terrorist act or to preserve evidence of a terrorist act that has taken place. A designated police officer can apply to the Supreme Court for an interim preventative detention order for up to 48 hours in the absence of the person against whom the order is sought to be made. Following the making of an interim order the Supreme Court hearing must take place in the presence of the person subject to the interim order for the purpose of confirming a preventative detention order.

Police can make arrangements with the Commissioner of Corrective Services for a preventative detainee to be detained in a correctional centre under section 26X of the Terrorism (Police Powers) Act 2002. Section 26X (3) expressly permits the regulations to exclude preventative detainees from being subject to the application of any of the provisions in the Crimes (Administration of Sentences) Act 1999 or the Children (Detention Centres) Act 1987. At present no provisions are excluded by the regulation. It is arguable that by making reference to the power to exclude provisions of those Acts—that is, the Crimes (Administration of Sentences) Act 1999 or the Children (Detention Centres) Act 1987—it is implied that both Acts do apply to the extent that they are not otherwise excluded.

However, there may be some slight ambiguity as to whether this is indeed the case. In order to ensure there is no doubt that the original intention of the legislation was for preventative detainees to be subject to the same rules regarding their care, control and management as all other inmates and to remove any further doubt, this bill will amend the terrorism (Police Powers) Act 2002 in a generic way to clarify that the Crimes (Administration of Sentences) Act 1999 or the Children (Detention Centres) Act 1987 apply to preventative detainees. However, as foreshadowed by section 26X (3), there will be provisions in the Acts and in the subordinate legislation that should not apply. Section 26X (3) allows for these provisions to be excluded by way of regulation. It is proposed that an amending regulation will be prepared in the near future to specify which provisions do not apply. These might include, for example, the entitlement of inmates to visits or communication with people outside the detention centre.

I turn now to the detail of the bill. Proposed section 26X (2A) will clarify that the provisions of the Crimes (Administration of Sentences) Act 1999 and the Children (Detention Centres) Act 1987 apply to any person detained under a preventative detention order, except to the extent that any such provision, first, is inconsistent with a requirement of that Act or the arrangement made for the person's detention; second, entitles a person to visit the person or entitles the person to communicate with another person because that Act makes detailed provision for such matters; or, third, is excluded by the regulations. Clause 2 provides for the commencement of the proposed Act on the date of its assent. Clause 3 is a formal provision that gives effect to the amendment to the Terrorism (Police Powers) Act 2002 set out in schedule 1. The schedule sets out the amendment to section 26X of the Terrorism (Police Powers) Act 2002, as I have outlined.

Terrorism presents our community with some very hard policy decisions. The task that confronts us all is to meet the terrorist threat while preserving the aspects of our society that mark us out as a free and open democracy. If a person is to be detained under a preventative detention order the legislation needs to be clear about which laws pertain to the person under the preventative detention order and which laws do not. This Government is ever vigilant in ensuring that legislation is in fact robust enough and capable of dealing with any possible outcome, and it continues to review and update its laws to keep up with the ever-present threats of Terrorism in today's society. I commend the bill to the House.

The Hon. JOHN AJAKA [5.09 p.m.]: The Terrorism (Police Powers) Amendment (Preventative Detention Orders) Bill 2007 amends the Terrorism (Police Powers) Act 2002 in relation to the detention of a person in a correctional or juvenile detention centre subject to a preventative detention order under the Act. The bill seeks to clarify potential ambiguities within the Act as it currently exists. It also seeks to ensure that the provisions of the Crimes (Administration of Sentences) Act and the Children (Detention Centres) Act, as the case may be, apply to persons detained subject to a preventative detention order under the Terrorism (Police Powers) Act 2002.

The Opposition does not oppose the bill. It is extremely regrettable that we live in a time when it appears necessary to have legislation allowing for preventative detention orders. The terrorist acts that have marred the beginning of twenty-first century, however, unfortunately have created an atmosphere in which it has been deemed necessary and appropriate for preventative detention orders to exist. It is important that whilst meeting the threat that terrorism poses we do not forget the individual fundamental rights of our society that mark us as a free and open democracy. It is our duty to ensure that justice is available to all residents of New South Wales. I remind the House of Article 9 of the International Covenant on Civil and Political Rights, which states:

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

There has been debate about whether the rights and obligations currently held by inmates in New South Wales are shared by preventative detainees. The bill seeks to remove any ambiguity, and amends the Act to ensure that preventative detainees are subject to the same rules regarding their care, control and management as apply to all other inmates. Proposed section 26X (2A) will clarify that the provisions of the Crimes (Administration of Sentences) Act 1999 and the Children (Detention Centres) Act 1987 apply to any person detained under a preventative detention order, except to the extent that any such provision is inconsistent with a requirement of that Act or the arrangement made for the person's detention, entitles a person to visit the person or entitles the person to communicate with another person because the Act makes detailed provision for such matter, or is excluded by the regulations.

The Government has stated, "An amending regulation will be prepared in the near future to specify which provisions do not apply." It is of concern that the entire substance of the amendments is not before the House today. However, as this is a matter of such importance the Opposition will not oppose the bill. It is important to note, however, that future amendments to the Act must abide by the principle of justice—a fundamental principle, which I would hope, guides the decisions made by all honourable members of this House.

Ms SYLVIA HALE [5.15 p.m.]: The Terrorism (Police Powers) Amendment (Preventative Detention Orders) Bill 2007 amends the Terrorism (Police Powers) Act 2002 to clarify the position of people detained on preventative detention orders in New South Wales prisons. The Greens strongly opposed the incorporation of preventative detention orders into the Act in November 2005. We continue to oppose the use of preventative detention orders because they are an attack on fundamental legal rights that have long been enshrined in our common law. We will continue to argue that people who have been neither charged nor convicted of any offence should not be deprived of their liberty. The amendment proposed in the bill illustrates the perverse nature of preventative detention orders. The bill makes it clear that the Crimes (Administration of Sentences) Act and the Children (Detention Centres) Act apply to people held under preventative detention orders, except where those Acts give a right to be visited or to communicate with another person.

So what are the rights that those Acts give to a detainee to be visited or to communicate with another person that the bill specifically seeks to extinguish? In relation to juveniles, section 8A (4) of the Children (Detention Centres) Act gives the Official Visitor—a person appointed by the Minister and who is expert in the field—the right to, among other things, confer privately with any person who is detained in the detention centre. Section 37F of the Act gives the Chief Executive Officer of Justice Health access to detention centres, detainees and medical records for the purpose of providing health services to detainees; preventing the spread of infectious diseases in, or in relation to, detention centres; keeping medical records of detainees; and providing advice to the director general on the diet, exercise, clothing, capacity to work and general hygiene of detainees. Section 21 of the Children (Detention Centres) Regulation 2005 provides for visits by legal practitioners to discuss or transact legal business, whether civil or criminal, in which the detainee has an interest.

In relation to adults, section 244 of the Crimes (Administration of Sentences) Act 1999 gives the Chief Executive Officer of Justice Health access to correctional centres, offenders and medical records for the purpose of ensuring that the provisions of the Act and the regulations, in so far as they relate to medical, surgical or dental treatment, or to the health of offenders, are being complied with. The Act makes it clear that the Chief Executive Officer of Justice Health is to have free and unfettered access at all times to all parts of the correctional centre, to all medical records held at the correctional centre, and to all offenders held in custody in the correctional centre.

Section 228 of the Act provides for each correctional complex, correctional centre and periodic detention centre to have at least one Official Visitor appointed by the Minister. The Official Visitor must visit the institution at least once per month for the purpose of, among other things, giving interviews to offenders held in custody at the complex or centre, and must, in accordance with the regulations, receive and deal with complaints. So the right that detainees currently have under these sections of the Acts is the right to be visited by people who are appointed by the Government and who have a legislated responsibility to ensure the health, safety and welfare of detainees. And it is that right that is to be specifically extinguished by the bill—just in case it was not clear enough that it was extinguished by the 2005 amendments to the Act.

I cannot understand how members of this House can be so comfortable with the system that is being established here. We are establishing a system whereby an Australian citizen, including a teenager as young as 16, can be taken into custody without charge, taken to a prison or juvenile detention centre and kept for 14 days while being denied access to those who have a legislated responsibility to ensure his or her welfare. This is a person who has not been charged with, let alone convicted of, any crime. It is a system so breathtakingly open to abuse that it is unconscionable to support it. And, of course, as repressive governments throughout history have discovered, once you start removing fundamental human rights like habeas corpus you end up with more and more perverse outcomes.

This bill represents such a perverse outcome. The effect of it is that a convicted serial killer in a maximum-security prison has greater rights than a 16-year-old held under a preventative detention order who has not been charged with a crime. The convicted serial killer has a right to be visited by his or her legal practitioner in relation to any civil or criminal matter that he or she is a party to, to have his or her health and safety monitored, and to have his or her treatment monitored by a person with a legislated responsibility to ensure that he or she is not subject to abuse, bashings or torture.

A 16-year-old facing no charge but being held on a preventative detention order has no such rights. The right to contact a lawyer is constrained and the right to contact the Chief Executive Officer of Justice Health or the Official Visitor is removed by this bill. To give more rights to a convicted serial killer than to an uncharged 16-year-old is completely perverse and it clearly demonstrates why this is bad law. The Greens can see no justification for refusing people held in prisons or detention centres access to the Chief Executive Officer of Justice Health or the Official Visitor, both of whom are persons appointed by the Minister. In fact, we see denial of access to such people as an invitation to ill-treat and abuse people held on preventative detention orders.

The bill is about removing checks and balances. This piece of legislation is as dangerous as the whole notion of preventative detention orders. We should be taking the opportunity to pause and see where this whole political exercise of whipping up fear and loathing has led us, rather than further entrenching the perverse outcomes of a perverse set of laws. The bill represents just the latest incremental rollback of our human rights. The Greens will continue to oppose the stripping of civil liberties and legal rights from our community and will vote against the bill.

Reverend the Hon. FRED NILE [5.21 p.m.]: The Christian Democratic Party supports the Terrorism (Police Powers) Amendment (Preventative Detention Orders) Bill 2007. Our position is diametrically opposed to that of the Greens. Last night SBS televised a documentary on Osama bin Laden on the *Cutting Edge* program. I recommend to the four members of the Greens that they obtain a copy of the documentary and study it because it provides the justification for legislation such as this. It was a two-part documentary, each of about one hour's duration. It was most thorough and accurate. Most chilling was the collation of interviews conducted with Osama bin Laden over many years, from when he was a young man involved with construction in Saudi Arabia to his present situation as leader of Al Qaeda.

It was said in the documentary that Osama bin Laden always kept his word. In one interview he virtually issued a warning about an attack on the twin towers in New York. He seems to believe that he should warn his enemies of any planned actions. But at the time of the interviews, unfortunately no-one took him seriously. In retrospect, those responsible for national security in the United States of America should have recognised the warning. Apparently bin Laden has announced that another major attack on the United States of America is imminent. That could be a reference to the recent foiled plot by a number of men to blow up Kennedy airport, or some other even more serious attack.

The young men who took part in the London train bombings had been previously identified from security surveillance photographs in the company of a more serious suspect. The police concentrated their efforts on that more serious suspect—whom they believed to be a terrorist—and did not realise that the young men in that suspect's company at a number of meetings were potential terrorists. Had there been any follow-up with regard to those young men, the bombings in the United Kingdom may have been prevented. Those events in the United States and the United Kingdom indicate lapses in security. I know civil libertarians are uncomfortable with this legislation and that almost every lawyer is unhappy with it because it seems to cut across our historical approach to law and order and the rights of citizens—

Ms Sylvia Hale: It does not just seem to, it does cut across them. It undermines the rights of citizens.

Reverend the Hon. FRED NILE: I know it does. I am saying we have no choice—a point I proved earlier. The member was not in the Chamber when I recommended that the four Greens obtain copies of the two

one-hour episodes of a documentary shown on the SBS television program *Cutting Edge*, which dealt with terrorism and the very reasons why legislation such as this is necessary. If they were to see that documentary, they might change their opinion.

Recently at Penrith nine men were charged with collecting explosives and planning a terrorist attack. That case is proceeding, and we will have to wait to see if any are found guilty of the charges. This detention principle has been introduced as a preventative measure. It is no good waiting until a bomb explodes killing many people before we say, "We will now be very strict and people will be arrested and charged." The authorities in the State and Federal governments have a responsibility to prevent terrorist attacks, and so far in Australia they have been successful in that endeavour. It will be only through legislation of this type that acts of terrorism will be prevented.

I fully support the bill. All members of the Christian Democratic Party fully support legislation that deals with the care, control and management of inmates in adult and juvenile detention centres being applied also to persons detained under the provisions of the Terrorism (Police Powers) Act 2002.

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Justice) [5.26 p.m.], in reply: I will respond very briefly to the comments made by Ms Sylvia Hale. In the Terrorism (Police Powers) Act 2002 as it was passed, section 26X (3) stated:

The regulations may exclude the subject from the application of any of the provisions of or made under the Crimes (Administration of Sentences) Act 1999 or the Children (Detention Centres) Act 1987.

In other words, a debate took place in this Parliament and it was resolved that the Crimes (Administration of Sentences) Act 1999 and the Children (Detention Centres) Act 1987 would apply to detainees under preventative detention orders, except to the extent that the regulations resolved to exclude them. Upon reading the Act one finds that extensive provisions were made in relation to people who are under preventative detention orders as to their rights and entitlements. Included within those provisions, for example, was section 26ZC, which states:

Humane treatment of person being detained

- (1) A person being taken into custody, or being detained, under a preventative detention order:
- (a) must be treated with humanity and with respect for human dignity; and
 - (b) must not be subjected to cruel, inhuman or degrading treatment by anyone exercising authority under the order or implementing or enforcing the order.

A criminal penalty was imposed for anyone contravening the order, with a maximum period of imprisonment of two years. There were restrictions on contact with other people and there were entitlements and restrictions in relation to contacting family members, the Ombudsman and lawyers. There were also special rules in relation to children under the age of 18. In other words, we had a regime in this Act that specified how a person had to be treated, that imposed a criminal penalty and that included certain provisions as to contacts and arrangements that were to take place. Implicit within that Act was an assumption that the Crimes (Administration of Sentences) Act and the Children (Detention Centres) Act were to apply, except to the extent that the regulations otherwise stated.

That is where we were left with the legislation the Parliament resolved. In January 2007 we received Crown Solicitor's advice that there was some doubt, notwithstanding that provision, that the Crimes (Administration of Sentences) Act 1999 and the Children (Detention Centres) Act 1987 applied to preventative detainees, and that it was desirable to have a legislative amendment to clarify that. The contribution of the Hon. Sylvia Hale was superfluous. The issue has been debated and resolved with what I believe was the fairly important signpost that the Crimes (Administration of Sentences) Act and the Children (Detention Centres) Act were meant to apply except to the extent that the regulations provide otherwise. The Crown Solicitor advised that there was still doubt as to whether those legislative provisions applied, and this legislation is designed to rectify the situation. Frankly, the arguments of the Hon. Sylvia were garbage.

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

The House divided.

Ayes, 23

Mr Ajaka
Mr Brown
Mr Clarke
Mr Costa
Ms Ficarra
Miss Gardiner
Mr Gay
Ms Griffin

Mr Hatzistergos
Mr Khan
Mr Lynn
Mr Mason-Cox
Reverend Dr Moyes
Reverend Nile
Ms Parker
Mrs Pavey

Ms Robertson
Mr Smith
Mr Veitch
Ms Voltz
Ms Westwood
Tellers,
Mr Colless
Mr Donnelly

Noes, 4

Mr Cohen
Dr Kaye
Tellers,
Ms Hale
Ms Rhiannon

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Third Reading

Motion, by leave, by the Hon. John Hatzistergos agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly without amendment.

DRUG AND ALCOHOL TREATMENT BILL 2007**Second Reading**

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Justice) [5.40 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

I am pleased to bring before the House the Drug and Alcohol Treatment Bill 2007.

This Bill reflects a new direction the NSW Government is taking in the treatment of a particular group of people who are in extreme situations of long term and entrenched substance abuse.

These are people who already have very significant health and other issues and who have been placed at even greater risk because they are no longer able to make decisions for themselves about seeking help and treatment.

The Bill provides the legal basis for a two year trial of short term involuntary care and treatment during which this group would undergo detoxification, rebuild their health and be linked in a planned and considered way to longer term rehabilitation and support.

The Government does not take the concept of involuntary treatment lightly. Every effort has been taken to ensure the Bill provides a therapeutic framework in which people only enter the Trial when they will benefit from the treatment with all controls being the least restrictive possible.

As Honourable Members would know, the NSW Government has long been committed to reducing the level and impact of drug and alcohol related harms in the community.

We highlighted this commitment through the Drug and Alcohol Summits and continue to do so under the new State Plan, which has specific priorities related to reducing the incidence and impacts of illicit drug use and risk drinking.

This Bill arises from a Government commitment in response to the 2003 Summit on Alcohol Abuse that recommended an inquiry into the Inebriates Act 1912, given concerns that the Act could better reflect modern medical practice, treatment options and legal safeguards.

The NSW Government asked the Legislative Council Standing Committee on Social Issues to undertake this inquiry, and we thank those Honourable Members who were involved for their comprehensive and compassionate work and report on this issue.

The Government also thanks the medical, legal, academic, government agency and community representatives who contributed their expertise and experience to the Inquiry and its report.

The Bill gives effect to the Government's response to the Inquiry which we released in January this year. In this response, the Government adopted the majority of the Committee's recommendations.

However, in line with our evidence based approach to drug and alcohol policy, the Government has agreed to first trial the proposed new framework for involuntary care before considering wider application.

I would now like to take the House through some of the key provisions in this Bill which has been developed in consultation with Emeritus Professor Ian Webster, AO, the chair of the Government's Expert Advisory Group on Drugs and Alcohol; the Chief Magistrate, Aboriginal Justice Advisory Council, Professor Bob Batey; clinicians from Nepean Hospital; and government agencies which will be implementing the Trial.

Part 1 of the Bill sets out the objects of the legislation which include improving the health and safety of persons with a severe substance dependence through the provision of involuntary treatment. The objects are generally consistent with the Committee's recommendation 3.

This Part also incorporates important principles to safeguard the rights of persons who are detained and treated under the Act, emphasising that this is an intervention of last resort and the interests of the person are paramount.

The Act will apply only in an area or areas prescribed by regulation. This will be the Sydney West Area Health Service for the purposes of the Trial, with the possibility of extension to other areas depending on progress and outcomes. The Inebriates Act 1912 will continue to operate elsewhere in NSW.

Minors are excluded from the Trial under this Part.

The definition section includes the important threshold issue of what is "severe substance dependence". The Bill definition has been carefully developed in consultation with clinicians and aims to include each of the factors a medical practitioner would consider in diagnosing such a condition.

"Tolerance" to a substance of dependence, which is part of this definition, is a term familiar to medical practitioners and health workers and, as it relates to this population, refers to a very high level of the substance being required to achieve an effect originally produced by lower doses.

The definition of severe substance dependence also brings in the concept that to be eligible for involuntary care the person must have lost the capacity to make decisions about their substance use and personal welfare due primarily to their dependence on the substance.

This is consistent with the criteria for involuntary care recommended by the Committee and, according to clinicians, is pivotal to identifying the intended target group of this legislation.

Part 2 sets out the process of involuntary detention and treatment.

"Accredited medical practitioners" appointed by the Director-General of NSW Department of Health may detain and treat a person under the Act after assessing the person and issuing a "dependency certificate".

The person will be held in a treatment centre declared for this purpose by the Director-General of the NSW Department of Health. This will be the Inpatient Withdrawal Management Facility at Nepean Hospital during the Trial.

Any medical practitioner may ask an accredited medical practitioner to assess a person under clause 9(1). This process recognises that involuntary detention and treatment is essentially a clinical decision. It will not prevent families and other interested parties from approaching any medical practitioner in the catchment area and asking them to formally initiate the process for detention and treatment under the Bill.

The assessment criteria to ensure only suitable persons enter the Trial are set out in clause 9(3). The accredited medical practitioner must be satisfied the person has a severe substance dependence—as described earlier—and needs protection from serious harm. Treatment is likely to benefit the person but the person has refused treatment. There are no other appropriate and less restrictive means of dealing with the person.

Throughout the assessment process under the Bill, the interests of the person remain paramount. However, in assessing the person the accredited medical practitioner may also have regard to any serious harm that may occur to children or dependants of the person.

Clause 10 makes provision for compulsory assessments to be ordered by the court and assisted by police where necessary. This will occur if someone appears to meet the criteria for involuntary care but the accredited medical practitioner is unable to access them. For example, someone might be too ill to go to the facility or they may be uncooperative.

There are powers under clause 20 to transport dependent persons to the treatment centre and use reasonable force if necessary. There are also powers under clause 22 for police or others to apprehend any person under a dependency certificate who escapes and return them to the treatment centre.

These are powers of last resort to help give effect to the involuntary scheme. They are modelled on similar provisions in the Mental Health Act 1990 and the Mental Health Bill 2006. Their use, and particularly any police involvement in the Trial, will be guided by an interagency Memorandum of Understanding that will underpin implementation and will be monitored as part of the evaluation.

Detention is for up to 28 days under clause 14. This may be extended to three months by court order under Part 4 in cases of alcohol-related brain injury. This may occur where more time is required to treat and prepare a discharge plan for the person.

Under clause 14 and Part 4 the accredited medical practitioner's decision to issue a dependency certificate is subject to review by a magistrate as soon as practicable after it has been issued. This will generally be within 7 days. The magistrate may decide to confirm the certificate, confirm it for a shorter period or discharge the person.

During the process of assessment and detention the person will have rights to legal representation and assistance by interpreters if necessary. The person will also have the right to apply to the Administrative Decisions Tribunal for a review of a magistrate's decision.

There are powers to treat people in Part 3, and under Part 5 accredited medical practitioners can take action to protect a dependent person or others in the treatment centre from serious physical harm.

This will allow the restraint and seclusion of patients where absolutely necessary and guidelines will be developed for this consistent with occupational health and safety requirements.

The accredited medical practitioner may discharge a person from a treatment centre at any time. This does not require recourse to the courts, again in recognition that involuntary treatment under the Act is essentially a clinical decision. This is consistent with the Standing Committee's recommendations.

There are requirements in clause 25 to consult the dependent person, his or her nominated primary carer and other agencies in planning the discharge of the person and any later treatment or other action considered in relation to the person. This reflects the Government's intention that there will be a strong component of aftercare for dependent persons following discharge from the treatment centre.

The detention and treatment of dependent persons under the Act is subject to monitoring by official visitors under Part 3. The Trial will rely on the existing system of official visitors established under the Mental Health Act 1990 for this purpose.

Part 5 includes standard protections from personal liability for police officers and health care professionals in exercising functions under the Act.

Finally the Minister is required to review the legislation in operation and report to Parliament within two years.

The Government intends to arrange a comprehensive evaluation of both the legislation underpinning the Trial and the new system of short term involuntary care to be tested. The Trial will inform decisions about the future of the Inebriates Act 1912.

I commend the Bill to the House.

The Hon. JENNIFER GARDINER [5.40 p.m.]: The Drug and Alcohol Treatment Bill replaces the Inebriates Act 1912 in that it provides for a two-year trial of involuntary treatment for people aged over 18 with a severe substance dependence, with the aim of protecting their health and safety. Under the bill, families and other interested parties can ask for a detention and treatment process to be initiated. The definition of "severe substance dependence" is specified in the bill and means that a person:

- (a) has a tolerance to a substance, and
- (b) shows withdrawal symptoms when the person stops using, or reduces the level of use of, the substance, and
- (c) has lost the capacity to make decisions about his or her substance use and personal welfare due primarily to his or her dependence on the substance.

The trial envisaged in this legislation will be conducted at a location prescribed by the regulations, although the Minister in the other place named Nepean Hospital as the site for such a trial, and indicated that it may be extended to other areas if the trial is successful. The trial aims to stabilise participants through medical treatment, and then give them the opportunity to engage in voluntary treatment. An accredited medical practitioner must issue a dependency certificate before participants can be involuntarily referred for treatment if the medical practitioner is satisfied that care, treatment or control of the person is necessary to protect that

person from serious harm; or a medical practitioner can issue a dependency certificate for involuntary referral if it is considered that serious harm may occur to the dependent person's children or his or her dependents.

The bill has several parts, and sets out the treatment and care of dependent persons under the trial. It sets out in detail the steps that must be taken to nominate a person for treatment, and it limits detention for treatment to 28 days. It requires that the person in the trial must be brought before a magistrate for a review of the issuing of the certificate as soon as possible after the certificate is issued. The bill provides that detention can be extended to a maximum of three months if the court agrees that additional treatment is required for patients with drug- and alcohol-related brain injury. It also includes provisions for the administration of medication and for advising carers about what is happening. It provides for the transportation of persons in the trial to the place at which they are to be treated, which may involve the police and the courts if necessary, and it provides for official visitors to the program and rights of appeal.

The bill grants protection from personal liability for police and health care professionals involved in the trial. Within two years of the operation of the legislation, the Minister must report back to the Parliament on the trial. As I said, the bill replaces the Inebriates Act, at least with respect to a trial of involuntary treatment for people with a severe substance dependence. In that respect, it is generally consistent with relevant recommendations by the Legislative Council's Standing Committee on Social Issues report on the Inebriates Act. However, we note one variation on the committee's recommendations. The committee recommended that the proposed length of detention be 14 days, but the bill provides for detention for 28 days, which is a significant variation.

Opposition members, including my colleague the Hon. Robyn Parker, have noted that while the recommendation of a trial is supported, many other aspects of the review of the Inebriates Act have not been taken up by the Government. The Opposition is disappointed about that, and looks forward to further work by the Government on those matters. The Opposition is of the view that the trial provides an opportunity for treatment for people with severe substance dependence. Hopefully, it will provide relief for the families of such persons who have been pleading with the Government for help in their dire need. As I said, the proposed trial follows, to a significant degree, the recommendations of the social issues committee. The Opposition does not oppose the bill, but it warns that care will need to be taken to ensure there is compliance with the protections provided for participants in the trial and for doctors and others who are helping to manage the patients in the trial; compliance with the requisite provisions relating to the medical records of those in the trial; and insistence that the trial does not absolve the Government from providing other adequate drug and alcohol treatment regimes in New South Wales. In general we welcome the bill, but with those warnings.

The Hon. ROBYN PARKER [5.48 p.m.]: I support the general comments of my colleague the Hon. Jennifer Gardiner about the Coalition's support for the trial provided for in the bill, and I make the following specific comments. We support the bill, with one reservation. Unless there is adequate support for those referred to this program, support that goes alongside their treatment program while they are under care, and support that has a long-term outcome, there will be only a small improvement on the current situation. It is proposed that the trial will take place in one location only. I ask the Minister to explain in his reply what that means for those living outside Sydney.

I also ask the Government to explain why it took so long to respond to the Standing Committee on Social Issues report on the Inebriates Act. The committee took a great deal of time and care in its inquiry and made outstanding and excellent recommendations. The inquiry's terms of reference were based on the recommendations of the Alcohol Summit, which was held some time ago. For a long time the committee wrote lots of letters to the Attorney General asking for a Government response to the report. We have belatedly received a response from the Government, but it is only a small measure when one considers the recommendations of the inquiry.

The recommendations were far-reaching. The committee consulted with a great number of specialists both in this State and in Victoria, which was undertaking a similar investigation, and came up with sensible and practical recommendations. Those recommendations needed to be backed by goodwill from the Government and the provision of services and a treatment program. Our number one recommendation was that the Government repeal the Inebriates Act—an outdated, outmoded and ridiculous piece of legislation that goes back to the 1900s. I do not know why that Act has not been replaced with more sensible legislation.

The committee recommended an initial referral of 14 days, which was then to be reviewed, and a maximum period of 28 days. The Government has opted for 28 days at the outset. It was the committee's view,

and the view of the majority of people who gave evidence to the inquiry, that 14 days was appropriate. I do not know why the Government made it 28 days. I am concerned that the Government is proceeding with a number of pieces of legislation that take away civil liberties. At the very least the Parliament should check that the legislation is in line with the State's commitment to a number of human rights treaties both in Australia and internationally. Parliament checks legislation through the Legislation Review Committee, which has not met in recent times. Honourable members should be concerned because this is one piece of legislation that ought to go to the Legislation Review Committee.

Other legislation that should go before the committee is the human cloning and stem cell bill, which is currently before the lower House, and the Mental Health Bill, which this House just dealt with. A number of pieces of legislation that are before the Parliament may impinge on civil liberties. We need a check and balance, yet the Government has not convened the Legislation Review Committee. Although I am a member of that committee, I do not know when that will happen. It is an indictment on the Government. New members would appreciate a check and balance so they know we are abiding by the conventions we have agreed to. The Legislation Review Committee provides a check and balance, as we do not have a bill of rights or protections within the New South Wales Constitution.

I am pleased that the Government is taking action to protect this small, vulnerable group in the community. I hope this is only the first response and that a number of measured responses will follow. I would like to see this issue dealt with in an holistic way with a whole-of-government response. More than that, I would like a response that addresses the needs of rural and regional communities, not just Sydney-based people, so they can be treated in their community and be close to their families. The Government's response should include properly resourced services for these vulnerable people so they receive the proper back-up and support they need and are not just removed. In that way we will get the best outcomes.

I join with the Hon. Jennifer Gardiner in giving a commitment that the Opposition supports this legislation, which provides for a trial of a treatment program for this small group of people. We look forward to further recommendations from the Government that deal with people with drug and alcohol problems, particularly those who are vulnerable and may harm themselves or their families. We also look forward to a much quicker response from the Government and the Minister than we have seen so far.

Reverend the Hon. FRED NILE [5.54 p.m.]: The Christian Democratic Party is very pleased to support the Drug and Alcohol Treatment Bill. Although the bill is overdue, it is one small step in the right direction. I have raised the issue of a treatment policy for many years, at least the last seven years, based on my overseas inspections of drug programs in other nations. In particular, Sweden has an extensive and most impressive program for people with drug or alcohol addictions. With the introduction of this legislation, the Minister has taken a small step in the right direction.

Sweden has had its programs in place for a number of years. It has developed a strategy where police have power to take persons they suspect of being drug or alcohol addicted to a social assessment centre. The people are assessed by social workers who can recommend a treatment program. The programs are undertaken on an involuntary or coercive basis. A special social court judge has the power to order a person to undergo a treatment program for up to six months.

This legislation is a minor step because the treatment program is available for only 28 days. Some members have suggested that the treatment program should be for 14 days. I believe they have missed the point and do not understand the amount of time that is needed to help people who have severe substance dependence. Nothing can be achieved in 14 days, and 28 days is not long enough either. I would recommend three months, which is consistent with the provision for alcohol-related brain injury.

The same provision could apply to people who use drugs. Many drug users have brain damage. Marijuana and ice affect the brain. The Government should not be criticised about this legislation. The trial is a good initiative. I would have preferred the trial to take place in a number of centres, not just at Nepean Hospital, but it is a step in the right direction. The bill provides a legal basis for the Government's two-year trial at Nepean hospital of a new system of short-term involuntary care for people with severe substance dependence. The Christian Democratic Party enthusiastically supports the bill.

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

ADJOURNMENT

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Justice) [5.58 p.m.]: I move:

That this House do now adjourn.

ITALIAN NATIONAL DAY CELEBRATIONS

The Hon. MARIE FICARRA [5.58 p.m.]: I inform the House of recent events to celebrate the sixty-first Italian National Day. I was delighted to attend the Co.As.It Ball held at Dalton House on Friday 25 May 2007. Co.As.It is one of the largest and most active ethnic voluntary organisations in this State and its initiatives are of great benefit to the community. The ball's aim was to raise funds to assist elderly Italians suffering from dementia. I extend my thanks for a job well done to Co.As.It. President Lorenzo Fazzini and directors Peter Todaro, Romano Di Donato, John De Bellis, Frank Chiment, Commandatore Giuseppe Fin, Maria Pirrello, Linda Restuccia, Ben Sonogo and Rita Zammit.

The next celebration was Club Marconi's Festa Della Repubblica on Sunday 27 May 2007, which I attended with several parliamentary colleagues, including Senator Concetta Fierravanti-Wells, Premier Morris Iemma, Leader of the Opposition Barry O'Farrell, the Hon. Joe Tripodi, Mr Ninos Khoshaba and Ms Angela D'Amore, together with many local government councillors. The Marconi Club is an icon of the Italian community. An Italian club was first mooted in 1951, but only in 1956 did it start to become a reality for the people of Bossley Park and Western Sydney. The club was named after Guglielmo Marconi, who invented the wireless. His scientific genius provided a connection in the form of communication between different cultures. I also note that the Bossley Park area is the home of the first Italian to serve in any Australian Parliament, the Hon. Frank Calabro, AM.

Over 25,000 people attended the festa and experienced the great food and cultural stalls, the Fiat and Ferrari car show, kids rides, entertainment and the spectacular fireworks finale. Sam Shervola did an excellent job as the event's master of ceremonies. I extend my congratulations to the organisers, who did a wonderful job and were behind the entire celebrations, especially president Tony Campolongo, OAM, Councillor Frank Oliveri, Roland Melosi, Vince Foti, Robert Carniato, Mario Solgio, Delfina Pipitone, Gabriele Zamprognio, Joe Romeo, Sam Niosi and Andrea Carnuccio. My thanks to Debbie Feening, Chief Executive Officer of the club, and her staff for their hospitality.

On Sunday 3 June 2007 national day celebrations were also held at Circular Quay. Numerous State and Federal Ministers, members, former members and councillors attended. The event celebrated the club's twenty-fifth year in operation and marked the fifteenth year of John Caputo, OAM, as the committee president. A crowd in excess of 15,000 people gathered to hear performances by Cosima Devito, a finalist in Australian Idol, Alfio Antonella and John Giancarlonobli. Everyone enjoyed the stalls and, of course, the Italian cars.

I particularly congratulate those who received awards in recognition of their outstanding service to the Italo-Australian community; namely, Maria Sicari, Dr Gerlando Butti, Tony Mustaca, Roy Mustaca and Luigi Stivala. I also thank the dedicated workers on the committee: councillor Tony Mustafa, Luigi Stivala, Joe Santarosa, Vince Santarosa, Mario Beddoni, Mina Calabria, Antonio Caputo, Salvatore D'Angelo, Lucho De Nicola, Giuseppe Fin, Kerim Elgabaili, Pino Srezza, Riccardo Montrone, Bruno Riccio, Giovanni Romeo, Alfredo Vari, John Calabrese and Federica Polagri. I have recorded so many names because I believe it is important to acknowledge the extraordinary work that so many people undertake in the Italian community. I thank them for their time and effort in ensuring that such an important event as Italian National Day is properly recognised and enjoyed by all throughout wider Sydney.

FORESTS NSW AND BORAL TIMBER WOOD SUPPLY AGREEMENT

Mr IAN COHEN [6.03 p.m.]: On 18 June 2006 I called for papers under Standing Order No. 52 regarding the wood supply agreement between timber giant Boral and the New South Wales Government via its agency Forests NSW, and the Government agreed to supply the papers. However, when they were delivered the relevant figures were blacked out because the information was claimed to be privileged. I disputed the volumes of wood being supplied to Boral were privileged information and asked the Clerk to refer the matter to the independent arbiter, in this case Sir Laurence Street. Sir Laurence has made his decision and it seems that neither the Parliament nor the public is entitled to know what that decision is despite the process having been paid for by the taxpayer.

What is interesting about this denial of information is that it has been by supported by all parties in this House, other than the Greens. One can understand why the Government, feeling stale and under siege, would shy away from wanting to allow access to any information that might show it to be irresponsible. It is a feature of governments that have been in power too long—the longer they are in office the less interested they are in transparency and accountability. But what about the Opposition—the Liberals and The Nationals? Here they are, a bunch of wannabes, trying to convince the public that they would govern well. However, they are incapable of defending the public's right to a report that paid for by taxpayers; that is, the learned view of Sir Laurence Street.

The Christian Democratic Party and the Shooters Party likewise cannot suggest that they are anything other than the puppets of the major parties. If only they would demonstrate a semblance of standing up for the rights of public to know what its government is doing with public assets. If only they believed that government processes should be transparent. If they did, they would have supported the tabling of Sir Laurence's report. But, no, they are not really interested in good government, just the perceived sectional interests of their own voter bases.

This issue has involved a long and interesting debate both inside the House and out, and the smaller parties—particularly the Shooters Party—might find that their constituency includes the smaller timber operators who have been put out of business over the years because of the aggregation of the industry. It may well have been in their interests to have made representations on their constituents' behalf for some degree of transparency in this Parliament. They illustrated this point again yesterday by voting against the release of papers relating to Killalea State Park.

After listening to members of the community at the crossbench meeting and appearing to be sympathetic to their requests for information, the minor parties chose to allow the Government to bury information by voting against the release of these papers. These incidents show the public that when it comes to the abuse of taxpayers' money and secret government deals, everyone other than the Greens seems to be happy for the public to be shut out. Voters should remember that when they go to the polls to elect the Federal Government later this year. It is only the Greens who stand up for genuine inquiry, freedom of information, transparency and accountability. The two major parties appear happy to spruik it, but not so happy to put it into practice.

I asked a question of the Minister for Primary Industries yesterday and listened with great interest to his answer. He said in part, "Local industry is not involved in clear-felling; it is a very selective logging operation...". He said, "very selective". So it is not a "selective" logging operation but a "very selective" operation. He certainly has a way with words, this Minister. I have listened to the Minister over the years, and I think he has the record for speaking the longest in the Parliament. So we know he is very good at those things. But he said quite clearly in the House yesterday, "local industry is not involved in clear-felling", and that it is "a very selective logging operation based on IFOA highest standards possible". IFOA is Integrated Forestry Operations Approval. He said, "IFOA highest standards possible".

I looked at *Hansard* today and saw that the printed version records him as saying, "a licence granted by NPW ... certified internationally as a best practice model in the area". So I went back to the DVD version to see that what was actually mentioned. It was "IFOA—Integrated Forestry Operations Approval—highest standards possible". Here we have something said that is more than just a minor correction, but really it changes the nature of the whole answer. I ask: Is the Minister in this case misleading the Parliament?

NEW SOUTH WALES-ASIA BUSINESS ADVISORY COUNCIL

The Hon. HENRY TSANG (Parliamentary Secretary) [6.08 p.m.]: I am pleased to report to the House on the activities of the New South Wales-Asia Business Advisory Council. The advisory council held its last meeting in May and discussed its business plan and activities for the year ahead. It was the council's first meeting of this new Parliament. It is important to acknowledge the service and contribution of the council members. They have been very diligent in providing advice to the Government and the Department of State of Regional Development on trade and investment opportunities for New South Wales companies in Asia.

Among its contributions are two recent publications from the department to help New South Wales companies in two of the current fastest growing economies, China and India. The publications are called "New South Wales and India—The opportunity" and "New South Wales and China—The Opportunity". These publications provide excellent information on the capabilities and strengths of New South Wales companies, and

on the advantages of doing business in New South Wales. They also provide information on key industries with investment opportunities in New South Wales: pharmaceuticals, information and communications technology, finance and insurance, manufacturing and agribusiness.

The Indian publication highlights the complementary nature of our economies, and the cost competitiveness of New South Wales and our skilled multicultural workforce. An example of the benefit to the local economy is the investment by Tata Consultancy Services in a New South Wales software developer, Financial Network Services, which as a consequence won a significant contract to replace the back-office system for the Bank of China, a bank with a network of 22,000 branches and 380 million accounts. The department has recently led two investment missions to China and India to develop leads for Indian and Chinese companies to invest in New South Wales. I am expecting good news on that front.

The next step for the advisory council is to explore ways to provide a more comprehensive service to New South Wales companies. One avenue we are exploring is the expansion of the council to include wider representation from Asia. The council has already expanded to include representation from India. One key objective of the council is to identify current and new market opportunities and impediments for New South Wales companies. Given the increasing activities and connections with the Gulf countries in western Asia, we are proposing to expand the advisory council representation to countries such as the United Arab Emirates.

The United Arab Emirates is fast establishing itself as a modern economic powerhouse, attractive to many modern economies willing to contribute to its development. The New South Wales Government is aware of that, and is keen to develop our bilateral trade and economic relationship. The Premier understands the dynamic market in Asia, and he also understands the need to sell New South Wales to do business in Asia. The council will keep providing advice to the Government for its Trade Promotion Program. As the Premier said in his speech to the Asian Business dinner last year, "We've got to be active in the international market because there are plenty of people happy to take our place." He reminded us, "As Premier, I speak for New South Wales. And I say this unequivocally—engagement with Asia is now woven into the very fabric of our economy and our society."

We can longer use the tyranny of distance as an excuse. The Premier also reminded us that "for Australia, geography was no longer our drawback but our destiny". We must thank members of the New South Wales-Asia Business Advisory Council for their significant contribution to the State's development. I am aware that many members are eager to continue their service to the State. They are all keen to see New South Wales companies prosper, to provide jobs for the New South Wales economy.

HUNTER REGION HEALTH SERVICES

The Hon. ROBYN PARKER [6.13 p.m.]: I wish to raise some of the issues concerning the provision of health services in the Hunter region, particularly under this Government, which tells us it is heading in the right direction but there is more to be done. After successive health Ministers— including the current Premier, the current Attorney General, and Minister Reba Meagher—the signs are not looking good in terms of heading in the right direction in Health, and certainly more needs to be done. When it comes to health care generally, there is a huge disparity between the services available for those who live in the city and the services available for those who live in rural and regional areas. An article in the Newcastle *Herald* of 5 June said:

Ask the politicians about the Hunter's health services and they will tell you that they are doing everything they can in the circumstances.

I will tell them that that does not apply to all politicians. Indeed, it is the apologists on the Government side who tell us they are doing everything they can, and usually they point the finger at the Federal Government. Experts in the health field, including Dr Arn Sprogis from the Hunter Urban Division of General Practice and Mater Hospital medical staff council chairman Dr David Henry, will tell a different story. They will say that they are overworked, that the hospital system is under-resourced and cannot cope, and that the emergency department at the Mater Hospital, for example, had its workload increased by 13.4 per cent in the past year. They will say that Maitland hospital, for example, in the first three months of this year failed to meet a benchmark of finding hospital beds for 80 per cent of emergency patients within eight hours of admission. If that is heading in the right direction, I feel very, very sorry for the people who live in the Hunter region.

Dr Arn Sprogis tells us over and over again that the Hunter has a shortage of general practitioners, that it has one general practitioner for every 1,600 residents, which is half Sydney's rate of one in 800. Last year Dr Sprogis wrote that the Hunter's death rates were well above the State average. It is no surprise to hear apologists

from this Government; it is no surprise to hear it blaming the Federal Government. However, the data shows that waiting lists are blowing out and emergency waiting times are increasing.

The Hon. John Hatzistergos: That's rubbish. They are the best ever.

The Hon. ROBYN PARKER: They are not the best ever. Once again we get an apology from the Attorney General, the former health Minister. Hunter New England residents surveyed for the New South Wales Population Health report said they have had difficulties getting help. Almost 21 per cent said they had difficulty getting health care, compared with the State average of 13.2 per cent, a gap forecast to continue growing in 2007. Other figures published recently reveal a large increase in demand at Hunter emergency departments, and average growth across the major hospitals of 10 per cent.

There has been a growth in population, a growth in hospital needs and a growth in emergency care needs, yet the Government has failed to properly resource and adequately support the doctors, nurses and ambulance officers of the Hunter region. The Government was happy to parade an ambulance officer before us as the candidate for Port Stephens—the failed candidate for Port Stephens, who is now seeking to run for Federal Parliament. The Government was happy to hang ambulance officers out to dry last week when there was an issue in the Hunter of a young burns victim being turned away from two hospitals—which further highlighted the crisis in country health care.

The current Minister for Health and apologist for the Government, Reba Meagher, admitted that the agreed protocol was not followed on that occasion. She is happy to hang ambulance officers out to dry. The reality is quite different. In a number of ambulance stations in the Hunter ambulance officers have to go out in single-man ambulances, they are overworked, and they queue in emergency departments for hours. In the example I gave ambulance officers were simply trying to do the right thing. Peter Rumble of the Health Services Union says that emergency cases in the Hunter soared by 14 per cent between 2002 and 2005. He also says staff members were regularly claiming overtime, with some staff asked to work 18- and 20-hour shifts— [*Time expired.*]

THE ROCK CENTRAL SCHOOL

Dr JOHN KAYE [6.18 p.m.]: Last Friday up to five police cars and many more police officers were sent to The Rock Central School to remove a demountable classroom. This was done against the protests of parents, teachers and the community, who campaigned valiantly to protect their school. On behalf of the Greens I congratulate The Rock Central School teachers and school community and the New South Wales Teachers Federation on standing up for the best interests of this public school and its students, and public schools throughout the State.

The Rock is a small country town outside Wagga Wagga. The Rock Central School is a K-10 school with a total school population of 168. The Department of Education and Training decided to relocate the much-needed classroom from The Rock Central School to Young Public School after a fire at Young Public School on 11 May 2007. The Greens acknowledge that the tragic fire at Young Public School has left that school without two kindergarten classrooms and a special needs classroom, and we acknowledge the urgent need to replace the classrooms. However, we do not acknowledge the idea that one public school should be set against another and one community should be set against another in fighting for what is not a scarce resource.

The department has used the fire at Young Public School as an excuse to remove the demountable building at The Rock Central School. The department and the Minister have relied on two excuses. The first is that the demountable is not needed at The Rock Central School. It is claimed that there is an oversupply of space at The Rock Central. This is simply not true. The demountable that has been taken away is a heavily used classroom: it provides learning spaces for secondary students and intensive one-on-one teaching, and a meeting space.

Such has been the impact of removing the demountable that now English, science and cooking classes are conducted in a woodwork classroom. This school is in a spectacular phase of growth. It is a real measure of the success of the school community, the teachers and the parents that year 7 attendance has grown by 30 per cent and attendance in the younger years has grown by 10 per cent—167 students is an outstanding achievement for a small school serving a small community. These are figures that should be celebrated not punished by the removal of a demountable.

When the excuse no longer held water that the classroom was not needed the department and the Minister changed their tune and said there were no other demountable classrooms in the region. On Friday 18 May in the Wagga Wagga *Daily Advertiser*, when talking about the buildings at The Rock Central School, Regional Director Mr Colin Parker said:

The buildings were chosen because they were the only ones available in the state.

I can categorically assure them (parents and teachers) that the removal of the classroom and the two others in this region were the only ones that we could call on.

The Department of Education and Training later issued a statement that said:

The Department of Education and Training took into account all available demountables.

It is a nice story, but it happens to be not true. On 13 August 2006 Premier Iemma said on ABC radio that there were 100 demountables behind the Goulburn prison that were being kept there for unforeseen circumstances. The Premier said:

We do store demountable classrooms in case of emergencies.

When I questioned the Minister in the House on Wednesday 30 May he came up with the idea that Young Public School needs four module demountable classrooms while Goulburn has only three module demountable classrooms. If that is the case it raises serious questions about why the State invests so much money in keeping those demountable classrooms at Goulburn when it is not capable of responding to an emergency, such as the one that occurred at Young Public School. If we are to invest money in keeping demountable classrooms we need to ensure that they are appropriate and available for emergencies.

The story gets deeper with the teachers federation having identified 20 vacant classrooms sitting idle at Belmont High School, south of Newcastle, as well as Strathfield Girls High School, which back in January requested the removal of these vacant demountable classrooms. This seems like a small and parochial issue, but it is a very important issue to the community at The Rock. It is also a very important issue for all students, teachers and parents involved in public education. If the State can treat one public school with such cavalier disregard, it can treat all schools in that way.

DROUGHT SUPPORT PROGRAMS

BUY AUSTRALIAN GROWN

The Hon. TONY CATANZARITI [6.22 p.m.]: I am happy to report to the House that rain has started to fall in the parched areas of this State, and I truly hope it continues. Rainfall in the past couple of weeks has certainly brought about a change to the countryside in many parts of rural and regional New South Wales. While only 6 millimetres of rain was recorded in Griffith for April, during the month of May a total of 37.4 millimetres was recorded at the local airport. In other parts of the Riverina, Wagga Wagga recorded a total of 52.2 millimetres for May, Hay a total of 38.9 millimetres and Narrandera 52 millimetres. These falls have brought smiles to the faces of every member of our regional communities, not just the farmers. This year hopefully the rain will continue and not tease us as it has over the past few years—looking like delivering but nothing coming to fruition.

The recent rains have given farmers a great start to the winter cropping season, with some crops such as canola seeing the biggest plantings in years. This in turn will provide greater employment opportunities in our rural and regional communities, and as harvest comes around it would be great to see the paddocks yielding some good tonnages for the first time in a number of years. Although there are some amongst us who seem to disagree, our primary producers, the graziers, dry land farmers, horticulturists and the irrigators are good for our communities and they are good for the New South Wales economy. The State Government recognises this and it is for that reason that the New South Wales Government has spent more than \$300 million in assistance, and the Drought Support Worker Program and the Farm Family Gathering Program have been further extended by the Minister for Primary Industries.

Further, staff numbers have been increased at the Rural Assistance Authority to more than 30 to process claims from irrigation farmers for exceptional circumstances more quickly. One of the best ways we as consumers and fellow Australians can support our rural and regional families is to buy Australian grown products. Our products are world class and are often sought out by export markets and the top hotels and restaurants. I may be biased but I would think that if our agricultural produce is sought the world over then it is

good enough for the large supermarket chains in Australia. Our products are produced under strict conditions, which include strict guidelines on chemical usage and where products are grown. Primary producers also invest in research and development to ensure world's best practice and the long-term sustainability of the industry.

Our rural products are highly sought by world markets but, as I stated in my inaugural speech nearly four years ago in this place, the shameful manipulation of the prices of basic food items continues today and I still firmly believe that it contributes to the country-city divide. High supermarket shelf prices lead many people in metropolitan areas to believe that the Australian producer is receiving a high price at the farm gate. However, that is not the case. Some products are marked up a whopping 1,000 per cent by the large supermarkets owned by multinationals. The multinationals that run the supermarkets want us to support their businesses as their customers but do not want to return the favour to the families of our communities. The supermarkets continue to import products although the products are readily available here—all in the name of making record profits. So next time you are out shopping take the opportunity to attend one of the many farmers markets that have been established in various regions, including Sydney, and make sure you look for the Australian Grown logo and buy local.

HILL TOP RIFLE RANGE

The Hon. LYNDIA VOLTZ [6.26 p.m.]: Tonight I speak in regard to the Hill Top rifle range following some comments made by the member for Goulburn last Friday in regard to the expansion of the rifle range and the impact that will have. The local residents action group has raised the matter and said they do not mind people having guns, they just do not like guns being used at that particular site. Seven clubs have agreed to form the Southern Highlands Regional Shooting Complex Incorporated. Five of these clubs are presently using the Hill Top range for some of their activities, and there will be an additional two pistol clubs once the pistol range is built. One of these clubs will relocate from Scheyville in the National Park at North Windsor.

The previous member for Goulburn was happy to act as a patron for the rifle club and the Opposition parties supported the passage of the bill through the Parliament to set the land aside for the regional shooting complex. As part of its Shooting Club Development Program the Government is committed to consolidating shooting club activities into this multipurpose facility. This allows for a single-site facility threatened by urban encroachment where environmental considerations are evident and where ongoing tenure could not be guaranteed to relocate the facility to a suitable site. [*Time for debate expired.*]

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

Motion agreed to.

The House adjourned at 6.28 p.m. until Thursday 7 June 2007 at 11.00 a.m.
