LEGISLATIVE COUNCIL

Tuesday 6 November 2007

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The President (The Hon. Peter Primrose) took the chair at 2.30 p.m.

The President read the Prayers.

The PRESIDENT: I acknowledge the Gadigal clan of the Eora nation and its elders and thank them for their custodianship of this land.

ASSENT TO BILLS

Assent to the following bills reported:

Associations Incorporation Amendment (Cancellation of Incorporation) Bill 2007
Christian Israelite Church Property Trust Bill 2007
Motor Dealers Amendment Bill 2007
Partnership Amendment (Venture Capital) Bill 2007
Standard Time Amendment (Daylight Saving) Bill 2007
Anti-Discrimination Amendment (Breastfeeding) Bill 2007
Evidence Amendment Bill 2007
Food Amendment Bill 2007
Housing Amendment (Community Housing Providers) Bill 2007
Trade Measurement Legislation Amendment Bill 2007
Crimes (Sentencing Procedure) Amendment Bill 2007
Crown Law Officers Legislation Amendment (Abolition of Life Tenure) Bill 2007

CRIMINAL LEGISLATION AMENDMENT BILL 2007

COURTS LEGISLATION 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 orders of the day for a later hour.

NSW OMBUDSMAN

The President tabled, pursuant to the Ombudsman Act 1974, the annual report of the Ombudsman for the year ended 30 June 2007.

The President announced, pursuant to the Ombudsman Act 1974, it had been authorised that the report be made public.

Ordered to be printed on motion by the Hon. John Della Bosca.

HUMAN RIGHTS IN IRAN

Motion by Ms Sylvia Hale agreed to:

1. That this House notes that:

   (a) Iranian trade union leaders, Mr Mahmoud Salehi and Mr Mansour Osanloo, were illegally and brutally abducted and imprisoned by the Iranian security services in April and July of this year, and have been held without charge since then,

(b) Mr Salehi, who is the co-founder of the Saqez Bakery Workers' Association and the Coordinating Committee to Form Workers' Organisations, is currently imprisoned in Sanandaj in the Kurdistan Province and there is evidence that he is in extremely poor health, which is quickly deteriorating, and

(c) Mr Osanloo is the President of the Tehran Bus Workers' Union (Vahed Syndicate) and is apparently imprisoned at the Evin Prison, for allegedly 'conspiring against national security'.

2. This House expresses its gravest concern that the fundamental human rights of Mr Salehi and Mr Osanloo have been violated.

3. This House reaffirms its belief that the right of freedom of association, the right of working people to organise and the rights of citizens to protection from arbitrary arrest and detention are central to a democratic society.

4. This House notes that these rights are guaranteed by international agreements to which Iran is a signatory, and are enshrined in the resolutions of the International Labour Organisation (ILO) of which the Islamic Republic of Iran is a member.

5. This House calls on the government of the Islamic Republic of Iran to ensure the rights of Iranian workers are recognised and respected, including the right to strike, to organise and to form independent unions and associations

6. This House calls on the government of the Islamic Republic of Iran to immediately and unconditionally release Mr Salehi and Mr Osanloo and all other activists detained for their trade union activities, to return the dismissed workers of the Bus Company to their workplaces and to end the persecution of trade union leaders and activists.

TABLING OF PAPERS NOT ORDERED TO BE PRINTED

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

AUDITOR-GENERAL'S REPORT

The Clerk announced receipt, pursuant to the Public Finance and Audit Act 1983, of the Financial Audits report of the Auditor-General, Volume Three 2007, dated October 2007, received out of session and authorised to be printed on 31 October 2007.

LEGISLATION REVIEW COMMITTEE

Report

The Clerk announced receipt, pursuant to the Legislation Review Act 1987, of the report entitled "Legislation Review Digest No. 5 of 2007", dated 2 November 2007, received out of session and authorised to be printed on 2 November 2007.

PETITIONS

Kurnell Desalination Plant and Sustainable Water Supply

Petition opposing the construction of a desalination plant at Kurnell and requesting the development of cost-effective, environmentally friendly measures to ensure a sustainable water supply for Sydney, received from **Dr John Kaye**.

Crown Land Leases

Petition requesting the withdrawal of changes to the rental structure of Crown land leases, particularly enclosed road permits, received from **the Hon. Melinda Pavey**.

Female Boxing Matches

Petition requesting that the Boxing and Wrestling Control Act 1986 be amended to allow women to compete in boxing matches in New South Wales, received from **the Hon. Lynda Voltz**.

Building Sustainability Index

Petition urging the Government to withdraw the building sustainability index [BASIX] exemption for high-rise development and to require high-rise buildings to meet the same sustainability standards as freestanding homes, received from **Ms Sylvia Hale**.

Northern Rivers Rail Expansion

Petition requesting that the Government introduce regular local passenger trains on the Casino to Murwillumbah rail line, develop an integrated and sustainable plan for meeting the current and future transport needs of the Northern Rivers region, commence planning for a rail link from Murwillumbah to the Gold Coast and promote the expansion of rail freight, received from **the Hon. Catherine Cusack**.

BUSINESS OF THE HOUSE

Suspension of Standing Orders: Presentation of an Irregular Petition

Motion, by leave, by Mr Ian Cohen agreed to:

That standing orders be suspended to allow the presentation of an irregular petition from 1,001 citizens concerning the redevelopment of Lismore Base Hospital.

IRREGULAR PETITION

Lismore Base Hospital Redevelopment

Petition requesting that stage 2 of the Lismore Base Hospital redevelopment is completed by the first half of 2008, received from **Mr Ian Cohen**.

BUSINESS OF THE HOUSE

Withdrawal of Business

Private Members' Business item No. 62 Outside the Order of Precedence withdrawn by Ms Sylvia Hale.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 1 to 3 postponed on motion by the Hon. Tony Kelly.

ROAD TRANSPORT (GENERAL) AMENDMENT (WRITTEN-OFF VEHICLES) BILL 2007

Second Reading

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [2.43 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of this bill is to strengthen the management of written-off vehicles in New South Wales to reduce professional vehicle theft. The bill offers additional protection for the community from the activities of car thieves, and will bring into effect a number of nationally agreed best practice principles for the management of written-off vehicles.

The bill complements other initiatives by the New South Wales Government to combat vehicle theft, and supports the agreement of all Premiers to harmonise registration processes across Australia.

The bill includes more rigorous requirements and definitions for the notification of written-off vehicles to the New South Wales and the national written-off vehicle register, and offers additional consumer protection when purchasing written-off vehicles.

This bill is a result of extensive consultation between all states, territories and relevant industry groups. Consultation was coordinated by the National Motor Vehicle Theft Reduction Council, and "Austroads", which is the Association of Australian and New Zealand Road Transport and Traffic Authorities.

The principles and definitions in this bill have been agreed to by all jurisdictions for inclusion in their relevant legislation. Associations representing insurers, auto-dismantlers and dealers also support the proposed amendments.

The amendments in the bill will ensure that New South Wales achieves national consistency in notifying, registering and managing written-off vehicles to further reduce vehicle theft in New South Wales, and across Australia.

I am pleased to note that New South Wales is actively involved in national vehicle theft reduction forums and will continue to play a leading role.

Stolen vehicle activity is a major problem in New South Wales and across Australia. Motor vehicle theft costs the Australian community approximately $500 million every year in higher insurance premium costs and demands on the justice system.

Although the number of vehicle thefts has steadily reduced in recent years, Australia still records more than 70,000 vehicle thefts per year. This equals a vehicle being stolen every 7 minutes. More than 20,000 of these vehicles are not recovered, and it is estimated that as many as 3,000 of these vehicles are illegally re-birthed.

Before I detail the contents of the proposed bill, let me briefly explain to the House how written-off vehicles have been used illegally by car thieves. I will also explain how written-off vehicle registers help to reduce vehicle theft.

Car thieves have typically used the identities of written-off vehicles in the process of disguising and on-selling stolen vehicles. A thief purchases an unregistered written-off vehicle from an insurance company auction, an auction house, or from an auto-dismantler, at a cheap price. The thief then steals a similar make and model vehicle and substitutes the vehicle identifiers from the written-off vehicle onto the stolen vehicle. This process is known as "re-birthing".

The re-birthed vehicle is then presented to the Roads and Traffic Authority or its counterpart in another jurisdiction for re-registration. If the vehicle is re-registered, the stolen vehicle is on-sold privately to an unsuspecting, innocent buyer, at a high profit.

I note that a more recent criminal trend involves purchasing a repairable written-off vehicle from an auction or auto-dismantler and then stealing an identical vehicle to use for parts in re-building and on-selling the repairable written-off vehicle. In a complimentary theft reduction initiative, the RTA will be empowered from 1 November 2007 to suspend or cancel the registration of a vehicle if there are reasonable grounds to believe that components of the vehicle have been stolen.

Historically, professional thieves have relied on the inability of registration authorities and prospective purchasers to trace the identity history of the vehicle used to re-birth the stolen vehicle.

Car theft and vehicle rebirthing has also been linked to larger-scale organised crime, including drug distribution.

In response to the criminal activity of vehicle rebirthing, a New South Wales written-off vehicle register—which I will refer to as "the register"—was initiated in 1996 with the support of the insurance industry to help track and detect written-off and re-birthed vehicles before they could be registered.

I am pleased to note that the New South Wales written-off vehicle register was subsequently used as the model register for other states and territories to adopt. Approximately 36,000 vehicles are now recorded on the New South Wales register each year. The register has also proven to be a strong intelligence tool for Police when investigating vehicle crime.

It has been mandatory since 1998 for insurers, motor dealers and auto-dismantlers to provide notification of "high risk" written-off vehicles to the register. "High risk" motor vehicles are those that are less than 15 years old, which have relatively high resale value and are therefore likely targets for motor vehicle theft and re-birthing.

The information sent to the register "flags" the RTA's registration database to refer high risk vehicles for a detailed written-off vehicle inspection before they are considered for registration.

The use of the register, together with other theft reduction measures, has been effective in reducing vehicle re-birthing. Vehicle theft in New South Wales reduced by 11% in 2005, with a further 3% reduction in 2006.

Each state and territory now operates a written-off vehicle register. Each jurisdiction is also connected to the national written-off vehicle database, called the National Exchange of Vehicle and Driver Information System, or "NEVDIS". By sharing written-off vehicle information via the NEVDIS database, all jurisdictions are able to track and detect high-risk and re-birthed vehicles that are moved interstate.

The use of local and national written-off vehicle registers has been one of the main reasons for the 8% reduction in vehicle thefts nationally in 2005, and a further 6% reduction in 2006.

Although current strategies to date have been successful, the adoption of nationally agreed and consistent practices and definitions in New South Wales is crucial to continue the reduction in vehicle theft. Historically, the absence of consistent arrangements for the management of written-off vehicles has enabled car thieves to exploit legislative differences between the states and territories.

A properly integrated state, territory, and national grid of written-off vehicle registers can only be created by ensuring that New South Wales applies nationally agreed written-off vehicle definitions and practices.

This bill amends the Road Transport (General) Act 1999 to incorporate the nationally uniform definitions and best practice principles.

The existing definition of "written-off vehicle" will be amended to incorporate the nationally agreed definition. Two categories of written-off vehicles will be created: "repairable write-offs" and "statutory write-offs". All written-off vehicles must be categorised as either a repairable write-off or a statutory write-off before they are notified to the register. Both categories have been agreed nationally. The current Act uses the term "wrecked vehicles"—this term is replaced by the term "statutory write-off".

Statutory write-offs are generally vehicles that are so severely damaged that they are unsuitable for repair on the grounds of road-safety, but that also may have a high pre-damage value, and are therefore prime targets for car thieves and re-birthing. A "repairable write-off" is, as the term suggests, a vehicle that can be repaired and re-registered subject to a satisfactory standard of repair and a detailed inspection.

Before a vehicle is written-off, it is first assessed as being a "total loss", generally by an insurer. "Total loss" is also a nationally agreed definition included in the bill and describes a vehicle that has been damaged to the extent that it is generally uneconomical to repair.

The bill requires that after a vehicle has been assessed as a total loss by an insurer, self-insurer, dealer, or auto-dismantler, the vehicle must be determined as either a statutory write-off or a repairable write-off and notified to the register within 7 days of that determination.

The current definition of "late model motor vehicle" is to be amended to include a nationally agreed principle that notifiable vehicles have complied with the Australian Design Rules. This definition includes vehicles that are unregistered. These vehicles must also be notified to the register if they have been written-off.

These nationally agreed definitions will enable insurers, self-insurers, auto-dismantlers and dealers to accurately classify vehicles into specific, clear categories and to determine what information must be forwarded to the register. This will, in turn, ensure the accuracy of information on the register regarding vehicles of lesser and higher risk and offer protection to prospective purchasers.

The bill also includes stronger provisions to prevent statutory write-offs being re-registered in New South Wales. The bill provides the RTA with the authority to refuse to register, renew or transfer the registration of statutory written-off vehicles listed on an interstate register that correspond with the statutory written-off category. The RTA is also required to cancel the existing registration of such a vehicle in these circumstances.

The bill provides flexibility for the RTA to correct the register if necessary. This includes changing statutory write-off notifications to repairable write-offs and vice versa, and correcting errors or omissions from notifiers. The RTA can also correct the register on its own initiative if it is satisfied that the correction needs to be made to maintain the register's integrity, or for any other reason it considers necessary.

As an additional protection for vehicle owners, the register can also be corrected in special circumstances if an insurer refuses to pay an insurance claim after notifying the vehicle as written-off. The owner of a repairable written-off vehicle in these circumstances will need to make a written declaration that the vehicle has not been on-sold as a repairable write-off in New South Wales or anywhere else in Australia.

If the owner of a statutory write-off requests that the vehicle's status on the register be changed to repairable write-off, the RTA must be satisfied that the vehicle has not been altered or repaired, and that the owner has retained the vehicle.

A maximum penalty of $2,200 will apply for a false or misleading statement in requesting a correction on the register or a statutory notification.

The nationally agreed principles require self-insurers to notify the register of each late model vehicle that is written-off in the course of their business.

The bill will require self-insurers to notify a vehicle disposed of to an auto-dismantler. A self-insurer is defined as a person who is responsible for five or more late model motor vehicles for which there is no insurance policy covering loss or damage of each vehicle other than comprehensive third party insurance.

The aim of these provisions is to ensure notifications to the register are made by organisations with uninsured fleets of vehicles. Self-insurers will be able to send paper-based written-off vehicle notifications to the RTA or via the internet.

Notifiers will be allowed to use agents on their behalf to assess and notify a damaged vehicle. However, the prescribed notifiers will remain responsible for the accuracy and timeliness of written-off vehicle information provided to the register.

The bill also introduces the requirement for written-off vehicle warning labels to be attached to statutory write-offs to warn prospective buyers that the vehicle cannot be registered and is suitable only for spare parts and dismantling.

The New South Wales Government is committed to reducing the number of stolen vehicles in New South Wales.

The measures within this bill will facilitate the further reduction of stolen and re-birthed vehicles being re-registered and on-sold to unsuspecting members of the public.

This government has always aimed to safeguard private property and to reduce the cost to the community of stolen vehicle crime. The New South Wales Government's State Plan has set a target of reducing property crimes against households by 15% by 2016. This bill will help the government reach that target.

I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [2.44 p.m.]: The Opposition does not oppose the Road Transport (General) Amendment (Written-off Vehicles) Bill 2007. One grave problem in dealing with rebirthed vehicles has been lack of compatibility in legislation dealing with the issue. Motoring programs and road safety experts have expressed quite proper concerns about motor vehicle rebirthing, first, because rebirthing is part of organised crime and, secondly, because of the inherent lack of integrity in the frame of many rebirthed vehicles. A recent edition of the British program *Top Gear* illustrated the stark difference in results of head-on crashes of vehicles that appeared to be identical. One vehicle dramatically collapsed. If people had been in that vehicle, they would have sustained major injuries. The other vehicle remained reasonably intact, so that occupants would have walked away from it with only minor injuries. The difference between those two European vehicles of the same make was that one had been rebirthed and the other had not.

One could not have had a more dramatic demonstration of safety problems that can result from motor vehicle rebirthing. This illegal activity has been allowed to thrive. If we can do anything to address it, we should. One of my colleagues in particular has concerns about this issue. Although the bill is a reasonable measure to deal with a number of issues, my colleague the Hon. Catherine Cusack remains concerned about loopholes that remain despite this bill. A television program shown about a week ago identified some of those loopholes. My colleague has been pursuing this issue for some time as part of her shadow ministry of Fair Trading. The Motor Traders Association by and large supports this bill, which the Opposition regards as a necessary step in the right direction. The Hon. Catherine Cusack will raise a number of valid concerns about this bill in her contribution to the debate.

Reverend the Hon. FRED NILE [2.48 p.m.]: The Christian Democratic Party supports the Road Transport (General) Amendment (Written-off Vehicles) Bill 2007. The bill will amend the New South Wales Road Transport (General) Act 2005 so that it will accord generally with a national system of notifying, registering and managing written-off vehicles. In particular, the bill makes the terms and categories used in the New South Wales Act—such as "late model vehicle", "total loss", "written-off vehicle", "statutory write-off" and "repairable write-off"—consistent with those used in the laws of the other States and Territories. It also will enable the body maintaining the national database to have access to the details on the New South Wales written-off vehicles register. This important bill is designed to combat the high level of stolen vehicles in New South Wales and Australia. As honourable members know, stolen vehicle activity is a major problem in New South Wales and across Australia. Motor vehicle theft costs the Australian community approximately $500 million ever year in higher insurance premium costs and demands on the justice system.

Although the number of vehicle thefts has reduced in recent years, Australia still records more than 70,000 vehicle thefts per year. This equals a vehicle being stolen every seven minutes. More than 20,000 of these vehicles are not recovered, and it is estimated that as many as 3,000 are illegally rebirthed. It is important that the bill's provisions are applied in cooperation with the other States. Obviously, criminal gangs do not respect State borders, and can steal vehicles in one State, move them across to another State, and seek to circumvent the law by rebirthing them and seeking to have them registered in the other State, and so on. The bill is a very practical measure, and we are pleased to support it.

Dr JOHN KAYE [2.50 p.m.]: The Greens support the Road Transport (General) Amendment (Written-off Vehicles) Bill 2007. The bill provides national consistency in notifying, registering and managing written-off vehicles, to make rebirthing more difficult and thus reduce vehicle theft. A key feature of the bill is that the public will have access to the register. Purchasers will be able to check whether a vehicle is, or has been, on the written-off register. The exact process is yet to be worked out between the Roads and Traffic Authority and the Office of Fair Trading, and we look forward to hearing the details of it. A register of written-off vehicles is important, for three reasons. First, written-off vehicles play a role in identity theft in relation to the rebirthing of stolen vehicles.

[*Interruption*]

The Minister clearly does not support his own bill, because while I am indicating my support for it he is interrupting me. Identity theft is an important issue. The register will make it much more difficult for identity thieves to rebirth stolen vehicles. It will also provide an important form of consumer protection. A prospective used car buyer will be able to check whether the vehicle has been written off, and thus avoid purchasing a vehicle that may be unsafe. Finally, the register of written-off vehicles is important in regard to enhancing road safety, in that it will reduce the incentive to repair written-off vehicles and put them back on the road. The Greens support the bill.

The Hon. CATHERINE CUSACK [2.52 p.m.]: On behalf of the Opposition I raise specific concerns, particularly in relation to repairable write-offs. As Reverend the Hon. Fred Nile said, motor vehicle theft is a continuing problem in Australia. In 2000 a record 127,000 vehicles were stolen nationally, and that figure reduced to 64,000 by 2006. So, overall, motor vehicle theft has decreased dramatically. Of concern, however, is the total number of unrecovered vehicles, which has reduced from 15,000 in 2000 to 13,200 in 2006. An estimated two-thirds of those unrecovered vehicles are part of organised motor theft rings. These are gangs of people who steal cars for a black market supply of spare parts; the cars are stripped for that purpose. It appears that some of those cars are shipped overseas, particularly to the Middle East, and there is an abundance of evidence to support that.

The other issue of concern in relation to motor vehicle spare parts is that they have become known as one of the three forms of international currency for terrorism, the other two being gold and drugs. The international trade in motor vehicle spare parts needs to be monitored closely. Indeed, with regard to the men in Victoria who have been charged with terrorism offences, it has been indicated at the court hearing that the alleged offences were financed from the proceeds of car rebirthing. So it is a very serious matter at that level.

At the consumer level—and I speak as shadow Minister for Fair Trading—a purchaser of a vehicle that has been illegally rebirthed, or a repairable write-off, who would be unaware of the vehicle's history, can be ripped off to the tune of tens of thousands of dollars, which is extraordinary. The Opposition's concern relates to the fact that often the Government is aware, through the Roads and Traffic Authority, that these vehicles are dodgy. As I will outline in a moment, the vehicles have been registered in New South Wales and the Roads and Traffic Authority is aware at the time of registration that they are repairable write-offs, yet it issues registration papers that would be the same as for any other vehicle. A consumer who checks the registration papers of such a car would see nothing on those papers to indicate the vehicle's history.

If a car is a repairable write-off in New South Wales, that information would be advised to the Office of Fair Trading. When a prospective purchaser of such a car does a Register of Encumbered Vehicles [REVS] check with the Office of Fair Trading, it would show up that the vehicle was once a write-off that has since been repaired, and they would be fully informed of the history of the vehicle. But in the case of vehicles written off interstate and reregistered in New South Wales, prospective purchasers are not aware of the vehicle's history, because the Roads and Traffic Authority and the Register of Encumbered Vehicles are not able to integrate that information so it is not made available to consumers when they do their REVS checks. This is a huge loophole.

To give honourable members an idea of the seriousness of the problem relating to repairable write-offs, my understanding from briefings on the issue is that approximately 36,000 vehicles are written off annually and 20,000 of those vehicles are reregistered in New South Wales, even though only 15,000 of them were repairable write-offs in New South Wales. It is clear that New South Wales has become a honey pot, so to speak, for the registration of repairable write-offs. My understanding is that in a substantial number of the States, including Queensland, cars are written off and then rebirthed in New South Wales through the Roads and Traffic Authority.

I have a number of case studies, a couple of which I would like to draw to the attention of the House. Prior to doing so I want to quote from correspondence between the Government and the Motor Traders' Association in relation to this problem and how often it has been highlighted. I quote from a letter dated 27 November 2006 from the then Minister for Fair Trading, Diane Beamer, to the Senior Manager of Divisional Services at the Motor Traders Association, Mr David Smith. The letter, which was in response to representations the association had been making over a long period on this issue, stated:

> Dear Mr Smith
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> I refer to your correspondence regarding the need for the Register of Encumbered Vehicles to provide access to national information relating to stolen and written-off vehicles.
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> On receipt of your correspondence I referred this matter to Fair Trading for advice and I am advised that Fair Trading is currently working with the NSW Roads and Traffic Authority to access data from the National Exchange of Vehicle and Driver Information System.
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> National stolen and written-off vehicle information is obtainable through the National Exchange of Vehicle and Driver Information System, which is operated by Ausroads, a statutory consortium of the various jurisdictions' vehicle registration authorities and the Police. The interstate ministerial agreement relating to the National Exchange of Vehicle and Driver Information System was amended in late 2005 to permit access by third parties (such as the Register of Encumbered Vehicles System) but this access must be implemented via the relevant vehicle registration authority.

In other words, any legal impediment to this information being communicated has been removed through national action, and there is absolutely no legislative impediment to that information being made available. Indeed, all the States make it available at government level to each other. However, as the then Minister for Fair Trading said, the access must be implemented via the relevant vehicle registration authority. In the case of New South Wales, that is the Roads and Traffic Authority. The then Minister concluded:

> Subject to satisfactory system testing, it is anticipated that access to the data will be implemented during early 2007.
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> I trust that this information is of assistance.

The letter from the then Minister for Fair Trading promised that the loophole I have just outlined to the House would be closed in the first half of 2007. Clearly that has not happened, but it should happen. Why has it not happened? Earlier in the session we had legislation relating to the motor industry. As part of the inquiry into red tape that is hindering the industry and problems that could be addressed through a review of regulation of the motor trades industry, the Motor Traffic Authority again raised the issue with the Government. I quote from correspondence from Mr David Smith dated 24 September 2007 addressed to my office:

> It is interesting that the Minister states several times during her speech to the House the importance of written off vehicle data. The industry views this with equal importance. Given the significance of this matter, why is it that NSW REVS does not carry all of the most up to date information relating to the written off vehicle history of a motor vehicle?
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> The MTA highlighted to the Government in October 2006 that this was occurring and when a response finally did arrive in 2007 the answer was that the system would be modified "early 2007" to provide greater protection.
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> I have been advised by the Office of Fair Trading that the system is currently undergoing testing on an upgraded service, but consumers and businesses still do not currently have access to all written off vehicle data via REVS. Whilst this issue has been in the "too hard basket" countless unsuspecting consumers and businesses have found that they have done their REVS check only to discover at a later time that their vehicle is listed on a written off vehicle register in another jurisdiction, usually Queensland …
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> In addition to this, vehicles that are written off in another jurisdiction are all too readily accepted for re-registration by the NSW RTA, albeit as a high risk vehicle. The RTA knows they have been written off, yet REVS does not.

That is the problem in a nutshell. The case studies of people being caught out included not only consumers but also motor vehicle dealers. Vehicles are offered for sale, the motor dealer accepts the information provided by the consumer and pays for a register of encumbered vehicles check that indicates there are no encumbrances on the vehicle when it is a repairable write-off. For example, Valley Motor Auctions Pty Limited purchased a 2006 Mazda for $19,000 and on 24 September 2007 undertook a register of encumbered vehicles check for that vehicle. At that time the company would have considered the vehicle to be approximately 12 months old. The check revealed the vehicle was clear of encumbrances and the vehicle details were matched with the Roads and Traffic Authority.

On completion of the purchase, a vehicle information check by a private, independent broker—a person who is able to operate across the States—revealed that the vehicle was written off on 19 December 2006 with impact damage after it was involved in a serious accident in Queensland. It was not a stolen vehicle. The insurance company declared the 2006 Mazda to be a repairable write-off, which means that instead of getting $2,000 worth of scrap for it the insurance company could probably get $5,000. The presumption is that the person buying the car will use it for spare parts or try to rebuild it. If that is done, the car is probably then worth about $10,000. It is then re-registered in New South Wales. The Roads and Traffic Authority knows that the car has been written off and that it is a high-risk vehicle.

New South Wales Roads and Traffic Authority officers are permitted to open the bonnets and look at the engines of vehicles but they are not permitted to move anything. Therefore it is virtually impossible to determine if there are any cracks or structural damage. In most country areas of New South Wales not even a visual check of re-registered vehicles is conducted. A registered motor repairer must provide an all-clear slip. I cannot remember the colour of that slip but I am aware that an extra step is required if it is declared a high-risk vehicle.

The Hon. John Della Bosca: It is a pink slip.

The Hon. CATHERINE CUSACK: It is not a pink slip. It is an orange slip, I think, which is in addition to the pink slip and requires a more thorough check than a pink slip. These dodgy vehicles can be brought into New South Wales and issued with normal registration papers. Hence a car purchased at auction for $5,000 as a write-off has been bought by a motor dealer for $19,000 and ultimately will be sold for about half the price the dealer paid. This is completely avoidable. One hand of the New South Wales Government knew it

was a repairable write-off and the other hand did not. At the Fair Trading end consumers are told to do the check. The check is undertaken, but the information is not there. The Government is obviously not liable for the fact that it has not given the consumer the information. It is all risk and no responsibility to consumers.

I am aware of another case that involved the daughter of a paediatrician who purchased one of these dodgy vehicles for at least double what the car was worth. The car never should have been purchased because it has structural damage. The paediatrician is very angry that his daughter has been driving around in a written-off motor vehicle. He did want his daughter to be placed at risk and he has lodged a complaint with the Government to have this loophole closed. The Government said the loophole cannot be closed because the Commonwealth is going to fund a new national property register as the solution to encompass all of these problems. The difficulty is that the register is not scheduled to commence until 2008 and it will not be available until 2009. Judging by the pace at which joint Commonwealth-State projects progress it is usual to multiply the time not by a factor of two but more like a factor of four or five. In spite of the Federal election campaign, I understand that work is underway on the national property register and special provision will be made for motor vehicles. The Government does not want to spend a small amount of money solving the technological problem of two systems not talking to each other when this problem will be resolved in two years by another solution.

Consumers are being placed at massive risk of being ripped off. Each year in New South Wales 15,000 of these dodgy cars are re-registered. Consumers and car dealers are being ripped off and these vehicles are a risk on the roads. I do not believe we should have repairable write-offs. If a car has been written off then it should be destroyed and its plates withdrawn from the system. It should not be allowed to become fodder for organised crime, criminal rackets and consumer rip-offs. Only genuine car enthusiasts would purchase a handful of these vehicles for repair—it would be very much the exception. The bulk of these vehicles go straight into the hands of organised crime. It is an enormous frustration to the police that with all the laws, effort and resources we put into stopping car rebirthing we are at the same time feeding vehicles into the system that are an ideal and fertile resource for illegal crime and consumer rip-offs.

Consumers are unwittingly put in danger on the roads. For the sum of money involved it is absolutely unjustifiable. If we could get everyone to agree to not have repairable write-offs anymore we would stamp out the practice. If a car is written off, break it up and sell it for spare parts. That is a legitimate way for insurance companies to recoup some of their losses on the vehicles. The extra $1,500 they get on a wreck is from organised criminals robbing their customers and ripping off consumers. In future, the insurance industry should consider very carefully repairable write-offs. The Government should step in and address this issue.

The second simple measure to close the loophole is for the Roads and Traffic Authority to issue registration papers for repairable write-offs that have been re-registered in New South Wales with the words "repaired write-off" stamped in red on every page. With these papers, motor car dealers and purchasers would be instantly alerted to the true history of a motor vehicle and could make a genuinely informed decision as to whether to purchase it. If the Roads and Traffic Authority were to issue specially marked registration papers, New South Wales would no longer be a honey pot for the rebirth and sale of repaired write-offs. It would result in a reduction in the number of such vehicles for sale. I encourage other States to take similar steps to protect their citizens. I note that the lack of communication between the Roads and Traffic Authority and the Department of Fair Trading is not the problem in other States that it is in New South Wales, and that is the reason New South Wales is a honey pot for the sale of these vehicles.

A great deal of effort goes into combating motor vehicle theft and protecting consumers in the car industry. Millions of dollars worth of regulations, requirements and paperwork are imposed on the car industry to stamp out these practices. It is ludicrous that the Government has allowed this obvious loophole to remain and that it has not made every effort to ensure effective communication between the Roads and Traffic Authority and the Department of Fair Trading so that consumers are properly informed. New South Wales continues to be a source for organised crime and consumer rip-offs. I urge the Government to consider the two simple initiatives I have referred to. They do not require legislation. In particular, registration papers for repairable write-offs would be at no cost to Government. Yet this measure would ensure better-informed consumers and the sale of such cars, if at all, at their true value. It could lead to a huge reduction in the market of dodgy cars being sold to unwitting consumers.

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [3.12 p.m.], in reply: I thank honourable members for their contributions to this debate. I also compliment Hansard on their lovely decorations for Melbourne Cup day. The New South Wales Government is committed to reducing the number of stolen vehicles in New South Wales. The measures within this bill will facilitate the further reduction

of stolen and rebirthed vehicles being re-registered and onsold to unsuspecting members of the public. The bill brings into effect a number of nationally agreed best practice principles for the management of written-off vehicles. These include more rigorous requirements and definitions for the notification of written-off vehicles to the New South Wales and national registers, as well as additional consumer protection when purchasing written-off vehicles.

This bill is the result of extensive consultation between all States, Territories and relevant industry groups. The amendments in the bill will ensure that New South Wales achieves national consistency in notifying, registering and managing written-off vehicles to further reduce vehicle theft in New South Wales and across Australia. The New South Wales written-off vehicle register was developed in 1996 with the support of the insurance industry. The register was subsequently used as the model register for other States and Territories. Each State and Territory now operates a written-off vehicle register and is also connected to the national written-off vehicle database. A properly integrated State, Territory and national grid of written-off vehicle registers can only be created by ensuring that New South Wales applies nationally agreed written-off vehicle definitions and practices.

These nationally agreed definitions would enable insurers, self-insurers, auto-dismantlers and dealers to accurately classify vehicles into specific, clear categories and to determine what information must be forwarded to the register. This will, in turn, ensure the accuracy of information on the register regarding vehicles of lesser and higher risk, and offer protection to prospective purchasers. The bill also includes stronger provisions to prevent statutory write-offs being re-registered in New South Wales. The bill complements other initiatives by the New South Wales Government to combat vehicle theft and supports the agreement of all Premiers to harmonise registration processes across Australia. The New South Wales Government is actively involved in national vehicle theft reduction forums and will continue to play a leading role. 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.

Leave granted to proceed to the third reading of the bill forthwith.

Third Reading

Motion by the Hon. Eric Roozendaal agreed to:

That this bill be now read a third time.

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

TOW TRUCK INDUSTRY AMENDMENT BILL 2007

Second Reading

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [3.15 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.

The main purpose of this bill is to amend the Tow Truck Industry Act to improve the management and regulation of the tow truck industry.

The key measure within the bill will dissolve the Tow Truck Authority and establish the Roads and Traffic Authority (RTA) as the tow truck industry regulator.

This will result in the provision of better services to the tow truck industry and will give industry a stronger voice in shaping its future direction.

It will allow the New South Wales Government to take the next steps to enhance regulation of tow truck activities.

And it will provide further protection to road users and those who use tow truck services.

The matters addressed in this bill have arisen primarily from a statutory review of the Tow Truck Act which was completed in 2005 by the Ministry of Transport.

The review was required under section 109 of the Act to determine whether the policy objectives of the Act remain valid.

The review found that the Act's objectives are valid and its terms generally appropriate. It found that while deregulation of the industry is an ideal future goal, Government regulation is still required to prevent unacceptable and at times unlawful industry behaviour.

The review proposed several recommendations to further strengthen tow truck industry arrangements.

I am pleased to inform the House that the New South Wales Government has already implemented most of these recommendations.

In particular:

- Some of the proposed amendments to the Tow Truck Industry Regulation have been implemented to strengthen the regulatory regime;
- Joint compliance operations have been successfully conducted between the New South Wales Police Force and the Tow Truck Authority on a regular basis;
- The authority has developed a driver training program in consultation with Training and Logistics Industry Skills Council Limited and national accreditation of this program has recently been approved; and
- A new towing authority form has been introduced to improve customer's awareness of their rights and to better enable them to make an informed decision when negotiating for towing services.

The statutory review also recommended that:

- The Tow Truck Authority and the Board of the Tow Truck Authority be dissolved and that the RTA be established as the tow truck industry regulator;
- The Tow Tuck Industry Advisory Council be abolished; and
- The Job Allocation Scheme provisions within the Act be repealed.

This bill implements these remaining recommendations.

Extensive consultation has been undertaken on the proposals in the bill.

I understand the bill has the support of the Tow Truck Authority, the Tow Truck Authority Board, the New South Wales Police Force, the Roads and Traffic Authority and the Ministry of Transport.

In addition consultation with industry and stakeholders including the Motor Traders Association, the NRMA, the Insurance Council of Australia and other insurance groups was undertaken during the course of the statutory review.

I wish to speak first of the proposal to dissolve the Tow Truck Authority and to establish the Roads and Traffic Authority as tow truck industry regulator.

Since the Tow Truck Authority was established in 1998 it has implemented a range of reforms to deliver a more effective regulatory system for the tow truck industry and to improve the industry's professional standards as well as the standard of services provided to the tow truck industry.

However, the statutory review identified several shortcomings with the current governance arrangements.

In particular, it found the authority is not financially sustainable and importantly this is impeding its ability to implement further necessary industry reforms.

The authority currently has a very limited revenue base derived largely from tow truck operator and driver licensing fees.

Over the last several years, the numbers of operators and drivers has steadily declined, leading to a corresponding decrease in revenue.

The authority has never become financially independent, as was the original intention, and has consistently relied on supplementary funding from the Government.

As a result, the authority's ability to deliver better services to industry, and the people who rely on the tow truck industry's services, is severely limited.

Accordingly, the review proposed that the authority be dissolved, and that its functions be carried out by a larger, better resourced government agency, such as the Roads and Traffic Authority.

The New South Wales Government has examined this recommendation and believes that it is sensible for a number of reasons.

Firstly, the functions of the Tow Truck Authority are closely aligned with those of the Roads and Traffic Authority, and already the two authorities work collaboratively in several areas:

- The Tow Truck Authority licenses tow truck operators, certifies drivers, and regulates an industry that plays a significant role in maintaining the efficiency of the roads and traffic system in New South Wales. This is similar to the role of the Roads and Traffic Authority, which manages the licensing of around 4.5 million drivers throughout the State.

- The Tow Truck Authority's role in improving professional standards in the tow truck industry complements the Roads and Traffic Authority's priority in promoting responsible road use and road user safety; and

- The Tow Truck Authority and Roads and Traffic Authority currently work collaboratively in several areas. For example, the Roads and Traffic Authority distributes tow truck plates and various industry forms on behalf of the authority.

Secondly, the capacity, support and knowledge base of the Roads and Traffic Authority will improve services to industry and strengthen the way the industry is governed.

This is particularly the case with compliance and enforcement.

Honourable members may be aware that while many tow truck operators and drivers are law-abiding, there are some who undermine the credibility of lawful and legitimate operators.

A finding of the review was that, whilst industry standards and conduct have improved since the introduction of the stricter licensing and regulatory regimes under the Act, industry behaviour still needs to improve further.

Establishing the Roads and Traffic Authority as the industry regulator will strengthen compliance and enforcement activities and in turn weed out these unscrupulous operators.

For example, the Tow Truck Authority only has four dedicated compliance officers and has not had sufficient resources to adequately enforce tow truck legislation statewide.

This is particularly the case outside of the Sydney metropolitan area.

In contrast, the Roads and Traffic Authority has a statewide enforcement network and opportunities will be pursued to better utilise these resources to enhance the enforcement of tow truck legislation.

The Roads and Traffic Authority will draw on the expertise of Tow Truck Authority staff to examine and refine several of its enforcement programs to improve compliance within the industry.

The integration of intelligence will also enable the Roads and Traffic Authority to better pursue opportunities to tighten the net on illicit activities involving vehicle theft and vehicle rebirthing rings.

The Tow Truck Authority has identified vehicle theft and rebirthing activities as a problem within the tow truck industry and provides criminal intelligence in this regard to the New South Wales Police.

The Roads and Traffic Authority has a dedicated Vehicle Identification Inspection Unit which has been established to combat fraudulent activities attempting to use the Roads and Traffic Authority's registration system to launder stolen and rebirthed vehicles.

Inspections are conducted by the Roads and Traffic Authority on high-risk vehicles in the Sydney, Newcastle and Wollongong areas, and programs are in place to detect vehicle rebirthing outside these areas.

This unit also manages the Written-off Vehicle Register, and the allocation of vehicle identification numbers.

There will be an important opportunity to combine the intelligence resources from both agencies to monitor and carry out enforcement activities on vehicles of interest.

The Roads and Traffic Authority also has a highly advanced specialist proof of identity unit working to reduce the risk of fraudulent driver licences.

The Tow Truck Authority has detected several applicants who have attempted to use false or misleading documents as part of their applications. Easier access to resources such as those provided by the proof of identity unit will enhance the integrity of current tow truck licensing processes.

The Roads and Traffic Authority has highly effective document verification and robust licensing processes and procedures which will produce more efficient, streamlined customer identification and enrolment procedures for the tow truck industry.

In addition, the Roads and Traffic Authority has strong relationships that it has built with other Government agencies, such as the New South Wales Police Force with respect to road enforcement activities.

This is beneficial, because the review identified a need to conduct joint compliance operations with Police in tow truck hot spot areas.

These joint compliance operations have been successful so far, and will be even more effective under the new arrangements.

The other key benefit of the new arrangements is that the Roads and Traffic Authority has a statewide reach through its network of motor registries, which will provide benefits to both industry and road users.

Currently, there are 167 locations across New South Wales providing licensing and registration services and in 2006- 07 alone, it conducted more than 16 million licensing and registration transactions.

The motor registry network will eventually allow services to industry to be delivered in locations throughout the state, as opposed to the current situation, where most tow truck industry services are delivered through the Tow Truck Authority's Parramatta office.

This registry network, and other Roads and Traffic Authority resources, will also be used to educate road users on their rights as users of tow truck services and on the responsibilities and obligations of tow truck drivers.

This is an important point because a key finding of the review was that consumers need to be made more aware of their rights when using tow truck services.

In particular, there are still unscrupulous tow truck drivers who will prey on vulnerable and uninformed motorists by imposing unjustified or exorbitant charges and on occasions fraudulent charges for towing services.

To give effect to the new administrative arrangements, all staff currently working for the Tow Truck Authority have been transferred to the Roads and Traffic Authority and will form a distinct unit within the Roads and Traffic Authority. The Roads and Traffic Authority will maintain a focus on tow truck regulation.

These new management arrangements are similar to those in other jurisdictions. For example, Queensland and Victoria do not have a stand-alone authority to regulate their tow truck industry and have integrated these regulatory functions with other comparable activities. New South Wales is the only state that has an autonomous Tow Truck Authority.

As a result of this change in administration, the bill will also dissolve the Tow Truck Authority Board, and the Roads and Traffic Authority will assume several of its functions. This implements another key recommendation of the statutory review.

The board is currently comprised of five members and is the peak body responsible for decisions affecting the tow truck industry. The board's functions, as prescribed by the Act, include:

- Determining the policies of the Tow Truck Authority;
- Providing strategic planning; and
- Giving directions in relation to Tow Truck Authority functions.

The statutory review recommended that the board be disbanded in light of the proposed new administrative arrangements.

Accordingly, this bill will now provide for the functions of the board to be performed by the Roads and Traffic Authority and I am pleased to advise that the board supports this approach.

I commend the board on their progress and achievements to date in reform of the towing industry.

Another key finding of the statutory review was that the Tow Truck Industry Advisory Council should be dissolved and that industry should determine the nature and make-up of its own representative body.

Under the Act, the advisory council comprises members from various industry bodies and government agencies. Its principal role is to advise the authority on the regulatory environment, developments in the industry and proposed regulatory improvements.

However, the statutory review concluded that the advisory council, which has not met since June 2002, was not effective in communicating with industry and also not representative of the various industry segments.

The statutory review recommended that the advisory council be abolished and that industry should determine the nature and composition of its own representative body.

This bill gives effect to the recommendation to abolish the advisory council.

The New South Wales Government recognises the need to assist industry in driving the establishment of a more effective industry body.

In the place of the advisory council, an interim Tow Truck Industry Consultative Committee will be established. The committee will comprise current Tow Truck Authority Board members and various stakeholder and government agency representatives.

The principal role of this interim committee will be to consult widely with industry members and stakeholders to recommend the composition and role of a new, more effective, and more representative industry advisory council.

These new arrangements will give industry and other stakeholders a much stronger voice in influencing and shaping the future direction of the tow truck industry.

The bill also gives effect to another key recommendation in the statutory review report, that being the repeal of the provisions in the Act relating to the Job Allocation Scheme.

This scheme was originally proposed as a means to improve the safety of the public and tow truck drivers at accident scenes by putting in place a centralised call centre through which accident towing jobs were to be allocated.

The scheme was intended to eliminate unscrupulous practices within the industry such as tow truck drivers racing to an accident scene, the harassment of drivers of damaged vehicles by tow truck drivers and corrupt payment practices.

The scheme is currently not, and never has been in operation. A six-month trial of three models of the scheme was conducted in 2003.

An evaluation of the trial found that it did not deliver all the expected outcomes, it did not improve service levels and response times were slower than anticipated.

If implemented across the State, the scheme would have caused a major redistribution of towing work in many locations, which may have had longer-term detrimental effects on the industry and consumers. It would also have raised potential national competition policy concerns.

Furthermore, the review found that reforms introduced since the Act's commencement have significantly improved the operating environment that first prompted the development of the scheme and have essentially mitigated the need for it.

These reforms included the introduction of a stricter licensing and regulatory regime, which has been successful in denying undesirable persons entry into the towing industry and in prohibiting from operation certain types of tow trucks that were previously used to speed to accident scenes in an attempt to secure a tow.

As an indicator of the success of these reforms the Tow Truck Authority has reported a significant decline in the number of complaints it receives in relation to driver behaviour at accident scenes since the Act's introduction.

I must stress that the removal of the scheme from the Act will not change the existing requirements of tow truck drivers and operators.

In particular the current requirement to obtain a towing authorisation for accident towing will remain.

Towing authorisations are an important tool in reducing illegal accident towing and provide a high level of consumer protection. They will therefore continue to be required for accident towing work.

In fact, a new and improved towing authorisation has been introduced. This new towing authorisation provides an enhanced level of information for consumers particularly with respect to their rights and responsibilities associated with the towing of their vehicle after an accident and the fees and charges associated with the towing of their vehicle.

The new towing authorisation also provides a clearer audit trail of fees and charges imposed by towing operators. This will assist the regulator to investigate and stamp out unconscionable activities undertaken by some towing operators.

There are other amendments in the bill of a consequential nature.

For example, the Act will be amended to clarify that all moneys payable under the Act and Regulation which are received by the Roads and Traffic Authority are to be paid into the Tow Truck Industry Fund.

Similarly, all money to be paid out of the Fund is to be limited to expenditure related to the function, execution and administration of the Act and Regulation.

This is a temporary measure and will provide a transparent mechanism to account for income and expenditure on tow truck matters.

Before concluding, I would like to point out that the New South Wales Government will not at this stage be adopting several recommendations of the review.

For example, the Government at this stage will not be removing maximum accident towing fees. Currently, maximum fees are not set for trade towing. Consumers seeking a trade tow generally have more time and opportunity to obtain information and quotes in relation to the towing services they require.

This opportunity provides for a more competitive market, in contrast to when they are involved in an accident and need to arrange the towing of their vehicle immediately, often when they are in a state of shock or injured.

In the case of accident towing, the industry is not yet mature enough to set its own fees. There are still a significant number of unconscionable towing operators who endeavour to take advantage of a motorist's limited awareness of their consumer rights and the driver's responsibilities when arranging to have their vehicle towed following an accident.

The New South Wales Government will therefore continue to set maximum accident towing fees and will review this situation once industry training has been established and consumer awareness of the industry has been sufficiently raised.

In relation to the demerit points system proposed for towing operators and drivers, this matter is still under consideration and the Government will advise of its intentions on this recommendation in due course.

In conclusion, this bill will build on the success of the wide-ranging reforms already implemented by the Tow Truck Authority and will provide the foundations to drive further tow truck industry reforms.

> It will enhance the regulatory environment in which the tow truck industry operates.
>
> And it will improve the efficiency of the delivery of services to both the tow truck industry and those who rely on tow truck services.
>
> I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [3.16 p.m.]: The Opposition does not oppose the Tow Truck Industry Act Amendment Bill 2007. The bill seeks to dissolve the Tow Truck Authority, the Tow Truck Authority Board and the Tow Truck Industry Advisory Council, establish the Roads and Traffic Authority as the tow truck industry regulator and repeal provisions of the job allocation scheme. My friend and former colleague Peter Anderson undertook a review of the tow truck industry. I tried to ascertain whether he wrote one or two reports. I am advised he wrote only one. He did a great deal of work in this area and his recommendation is a proper one. The Tow Truck Authority was not financially stable, which impeded its ability to implement much-needed reforms.

The industry has had a chequered past. Over a decade ago there were concerns about improper links between the industry, police and insurers and unseemly activity at accident sites. Thankfully, in recent years that has become a thing of the past. This bill, like a great deal of Government legislation, has good parts and bad parts. The good parts are the measures that are heading in the right direction to improve the industry. The bad parts relate to the extra costs. I refer to a copy of a letter given to me by my colleague the Hon. Rick Colless, which was sent to the member for Northern Tablelands by Mr Keith Parsons. In the letter Mr Parsons states:

> I write to ask if you could make representation objecting to the Tow Truck Authority of New South Wales in relation to the new tow truck towing authorisation forms.
>
> They state we require new forms at a cost of a book of five forms for one hundred dollars or a book of twenty for four hundred dollars. Previous forms were a book of fifty forms for thirty eight dollars.
>
> They have increased towing charges from one hundred & eighty seven dollars to two hundred & five dollars which is an increase of eighteen dollars to cover CPI increases, environmental clean up costs & the cost of new forms, the forms alone cost twenty dollars.
>
> To me this represents a bureaucratic quest for more money. I do not believe it helps any ones position it only increases costs to the public.

I concur 100 per cent. Mr Parsons goes on to say:

> To operate a towing business we require a tow truck authority license fee of six hundred & sixty five dollars per annum, a drivers license fee of one hundred & sixty five dollars per annum as we are a NRMA service centre we have four drivers requiring licenses which amounts to six hundred & sixty dollars per annum. Tow truck registration one thousand four hundred & eight dollars green slip six hundred & forty two dollars which amounts to three thousand three hundred seventy five dollars per annum.

That is a pretty fair slug for a service station in a small- to medium-size town like Inverell, and it will take a lot of work for service stations to recoup these fixed costs. It is interesting to note that before 1 September it was possible to get 50 authorisation forms for $38—that is a cost of 76¢ each. After 1 September the cost of authorisation forms increased from 76¢ to $20 each: a 2,630 per cent increase. Consumer price index? It is a good little earner. Also, the cost to the public of towing charges has increased from $187 to $205. The really cute bit is that attachment 1 to the letter from the Tow Truck Authority of New South Wales dated 16 August and addressed to "Dear Operator"—one assumes the letter went to all tow truck operators across the State—talks about 20 new towing authorisation forms for $400 or five forms for the bargain price of $100, which is the same price. Attachment 1 states:

> The cost of the new forms has been incorporated within the new maximum tow fees. This will allow operators to recoup the cost of purchase for the new towing authorisations.

The Government is passing this cost on to tow truck operators but, being the benevolent government it is, it is allowing tow truck operators to pass those costs on to the citizens of New South Wales. We support the legislation, but we abhor the increase in charges.

The Hon. ROBERT BROWN [3.24 p.m.]: I speak on the Tow Truck Industry Amendment Bill 2007. The Leader of The Nationals has pretty much stolen my thunder: I agree with everything he said. The Shooters Party does not oppose the bill. We hope, however, that dissolving the board of the Tow Truck Authority and establishing the new regime under the Roads and Traffic Authority will do something to tighten up the operation of the industry. We have constituents in the industry who have expressed their concern to us about tow truck

companies that bid in a local area and therefore get on the roster but that do not necessarily charge the authorities the tender fee and instead charge the person whose vehicle has been involved in an accident.

The towing charge is now $205. I note the Hon. Duncan Gay's remarks regarding administration costs now being rolled into the new fees. It will be interesting to see whether under the new regime the fees continue to rise at a lower rate than they have to date. I note the astronomical increases mentioned by the Hon. Duncan Gay, but perhaps it is a case of taking the new regime on board, seeing how it works and hoping that it works better than the current system. We support the bill.

Dr JOHN KAYE [3.26 p.m.]: The Greens support the Tow Truck Industry Amendment Bill 2007, but with two caveats: first, to ensure that there is adequate funding for the Roads and Traffic Authority to provide adequate regulation to the tow truck industry; and, second, to ensure that the towing authorisation provisions are of sufficient strength to protect consumers from the adverse behaviour in the tow truck industry that we have seen. The bill has three key provisions. The first provision is to dissolve the Tow Truck Authority and transfer its regulatory functions to the Roads and Traffic Authority. The second provision is to formally abolish the jobs allocation scheme, and the third provision is to modify and hopefully strengthen the system of towing authorisations. The tow truck industry in New South Wales, to put it politely, has a very colourful history: a history of rough-and-tumble, intimidation, standover tactics, corruption and, indeed, even murder. The industry is also characterised by ongoing complaints of vehicles being taken to distant repairers without the full consent of the consumers.

Since 2003 significant progress has been made in cleaning up the industry, but no-one pretends that all the problems that existed prior to 2003 have been solved. In fact, not even the Government says that the industry is entirely cleaned up. Hopefully this legislation will be a step in the right direction towards an industry that is not characterised by the antisocial behaviour it has displayed. The disbanding of the Tow Truck Authority and the transfer of functions to the Roads and Traffic Authority is claimed to provide better regulation of the tow truck industry on the basis that the Roads and Traffic Authority is a larger organisation with a greater capacity to regulate the industry. That seems to be credible and we will certainly monitor it to make sure that is indeed what happens. But without adequate funding and resources the Roads and Traffic Authority will not be able to protect consumers and further reduce adverse behaviour in the industry.

One of our concerns remains the possible loss of focus when the tow truck regulatory functions are transferred to the Roads and Traffic Authority. We also note that the Tow Truck Industry Advisory Council is being disbanded. That is not surprising given that it has effectively fallen apart. Apparently it has not met for five years. The statutory review report recommended that the advisory council be disbanded. This legislation establishes a tow truck industry advisory committee to determine the structure of the advisory board that will replace the council. Hopefully that interim body will meet soon and will develop credible plans to provide for the orderly regulation of the tow truck industry.

The bill also modifies the towing authorisations required before a vehicle is towed. This is probably the most important single protection that consumers currently enjoy. I hope that protection will be strengthened to further reduce the potential for tow truck drivers to exploit the stress and confusion that many people involved in motor vehicle accidents experience. Again, this Parliament will need to keep a watching brief. It is very important that we do not return to the bad old days of the cowboy operators. The bill also abolishes the job allocation system. It is an abolition in name only given that the system has never worked. I understand that it was trialled and although it looked promising on paper it never worked. Its abolition is probably appropriate, but we must keep an open mind about reforming the industry.

The Greens are glad to note that the Government did not accept the statutory review recommendation to remove maximum accident towing fees. The review report was correct in pointing out that this is an important consumer protection. People involved in motor vehicle accidents are not able to make informed market choices or to shop around, and some operators still seek to exploit the confusion and disorientation consumers experience. The Greens are also glad to hear that progress has been made in cleaning up the industry since the days of death threats and intimidation of drivers and the corruption that led to a series of inquiries being conducted between five and seven years ago. More needs to be done because some operators still indulge in inappropriate behaviour. If the Roads and Traffic Authority does not take its new role seriously and is not sufficiently vigilant it will be easy for the industry to slip back into the bad old days. The Greens support the bill.

Reverend the Hon. FRED NILE [3.33 p.m.]: The Christian Democratic Party supports the Tow Truck Industry Amendment Bill 2007, which will abolish the Tow Truck Authority of New South Wales and transfer

its regulatory functions to the Roads and Traffic Authority. It will also abolish the job allocation scheme and require towing authorisation to be obtained for the carrying out of accident towing work. As members have already stated, the original amendments were introduced in 2003 because of clear evidence of the involvement of not only criminals but also organised criminal groups who were effectively taking control of the industry in this State. There was evidence of intimidation and firebombing of tow truck operations. Those activities were clearly designed to force honest operators out of the industry so that the dishonest operators could rip off people who were already suffering the effects of a road accident—probably also injury and death—by subjecting them to standover tactics at accident scenes.

The Christian Democrats are pleased that the Government has reviewed this system and that the Tow Truck Authority, which is being abolished, will be replaced after consultation with the industry and other bodies. The tow truck industry must be involved in this process. We call on the Government to cooperate with the industry to ensure that the new system is workable. It is disappointing that the authority was not financially sustainable. Why not? Some say that not enough money was made available. The Government should ensure that bodies such as this operate efficiently, and clearly it did not. The Government has admitted that the authority was not even representative. Why not? It has also admitted that it did not communicate with the tow truck industry. Why not? When a body established by legislation is not operating properly the Government should ensure that it does. It appears that that did not happen in this case. At least the Government is now moving to rectify that situation with this bill.

The Hon. RICK COLLESS [3.35 p.m.]: I understand the need for the Tow Truck Industry Amendment Bill, but I am concerned that in regional areas the bureaucracy it establishes will outstrip its benefits. As my colleague the Hon. Duncan Gay pointed out, I was approached by Mr Keith Parsons from Inverell, who is the service manager at Gaukroger and Sons, the local Holden dealer, which is also the local NRMA franchisee. The business operates one of the few tow trucks in the area. The situation in regional New South Wales is different from that existing in the larger metropolitan areas, where tow trucks compete for work—often only one tow truck is available. A local operator might do only three or four tow jobs a week but faces fixed costs of $3,375 a year for the pleasure of providing tow truck services to the local community. Keith Parsons could not believe the fee increases imposed by this legislation. He said that the business would not be able to recoup the costs.

In addition, the maximum charge for any accident towing work is $205, unless the towing distance is more than 10 kilometres. All of urban Inverell is within 10 kilometres of the smash repair workshops. That means the towing operator would get only $205 for spending a couple of hours retrieving a car from an accident scene. It is different when accidents happen out of town; that is the only time a tow truck operator will be allowed to charge $4.80 a kilometre and have any chance of recouping costs.

This bill requires tow truck operators to hand information and quote worksheets to consumers. Often in country areas the police, the ambulance and all those involved have left the scene of the accident when the tow truck operator arrives to pick up the car and take it to the local smash repairer. How can the tow truck driver abide by the law and hand over the information and towing quote sheets to the consumer? The consumer has probably been home for a couple of hours when the tow truck arrives. Obviously, the Minister has not considered the impact of this legislation in country areas. He would do well to liaise with tow truck operators in regional areas to ensure that the regulations are more business friendly.

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [3.39 p.m.], in reply: I thank members for their contributions to this debate. The Tow Truck Industry Amendment Bill will allow the New South Wales Government to take the next steps to enhance regulation of tow truck activities. It will provide further protection to road users and those who use tow truck services, and it will result in improved services for the tow truck industry. It will also give a stronger voice to industry, particularly in the shaping of its future. The matters addressed in this bill have arisen primarily from a statutory review of the Tow Truck Industry Act. The review recommended that the Tow Truck Authority and the board of the Tow Truck Authority be dissolved and that the Roads and Traffic Authority [RTA] be established as the tow truck industry regulator; that the Tow Truck Industry Advisory Council be abolished; and the job allocation scheme provisions within the Act be repealed.

The initiatives in this bill will enhance the regulatory environment in which the tow truck industry operates. It will improve the efficiency of the delivery of services to both the tow truck industry and those who rely on tow truck services. Extensive consultation has been undertaken on the proposals in the bill. In particular, consultation has been undertaken with key stakeholders including the Motor Traders Association, the NRMA,

the Insurance Council of Australia and the New South Wales Police Force. It makes sense to transfer the functions of the Tow Truck Authority to the Roads and Traffic Authority. The capacity, support and knowledge base of the authority will improve services to industry and strengthen the way the industry is governed.

Establishing the Roads and Traffic Authority as the industry regulator will strengthen compliance and enforcement in the industry, and the Roads and Traffic Authority in turn will draw on the expertise of Tow Truck Authority staff to refine its enforcement programs and improve compliance within the industry. The authority has highly effective processes and procedures, which will produce more efficient, streamlined customer identification and enrolment procedures for the tow truck industry. The important enforcement work the Tow Truck Authority has been undertaking with the support of the New South Wales Police Force will be continued and enhanced by the Roads and Traffic Authority.

Joint compliance operations targeting tow truck hot spots have already been successful, and will be even more effective under the new arrangements. The authority's resources, including its network of registries, will be used to educate road users on their rights, and on the responsibilities and obligations of tow truck drivers. I acknowledge that since the Tow Truck Authority was established in 1998, it has implemented a range of reforms that have delivered a more effective regulatory system for the tow truck industry. The reforms have also improved the industry's professional standards, as well as the standard of services provided to the tow truck industry.

In response to some of the issues raised by honourable members, I understand the recent increased fees and charges are the first increases to licensing fees in seven years. The maximum increase was 9.1 per cent, while some fees and charges remain unchanged. The increases were well below the 23.3 per cent movement in the consumer price index since the last increase seven years ago. The concessional rates available to country operators for their licensing fees and charges have been maintained. Additionally, from 1 September 2007 the Tow Truck Authority introduced a new towing authorisation, which provides an enhanced level of information for motorists on their rights and responsibilities when vehicles are towed; details of who towed their vehicle and where it was towed to; and an estimate of the charges for the towing services to be provided.

Concurrent with the introduction of the new towing authorisation on 1 September 2007, the authority also increased the schedule of various maximum towing charges to ensure that the industry is able to make consumer price index movements associated with their operational expenditures. The motorist or insurer pays the charges for the towing of motor vehicles from the accident scene. The Tow Truck Authority has maintained fees and charges to the industry well below the consumer price index movements. With the introduction of the new towing authorisation the authority has also sought a contribution towards industry reform from those who benefit greatest from the improved industry standards—the consumers. This bill will build on the success of the wide-ranging reforms already implemented by the Tow Truck Authority and will provide the foundations to drive further tow truck industry reforms. 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.

Leave granted to proceed to the third reading of the bill forthwith.

Third Reading

Motion by the Hon. Eric Roozendaal agreed to:

That this bill be now read a third time.

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

SUMMARY OFFENCES AMENDMENT (SPRAY PAINT CANS) BILL 2007

Second Reading

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Justice) [3.45 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.

The Government is pleased to introduce the Summary Offences Amendment (Spray Paint Cans) Bill 2007.

Graffiti-tagged public transport and public facilities are not just costly nuisances; they can also lead to further crime problems, discomfort for users and serious safety concerns.

That's why this Government takes a comprehensive and tough approach to fighting graffiti vandalism.

During the election campaign, the Premier promised to continue the fight against graffiti by committing his re-elected Government to:

- Strengthen anti-graffiti laws to require a young person found in possession of spray paint in public to establish they have it for a legitimate purpose; and
- Give police the power to confiscate spray cans from people under 18 if they do not have a lawful excuse for having it.

This bill gives effect to these commitments.

The Iemma Government has a long record of implementing strong and effective anti-graffiti measures.

In 2006, the Premier announced a comprehensive strategy to drive down the incidence of graffiti, which included:

- the establishment of the Anti-Graffiti Action Team (AGAT) to drive new measures to reduce graffiti throughout the State;
- increasing the use of Community Service Orders to make offenders repair the damage caused by graffiti vandalism;
- identifying graffiti "hot spots" and stepping up enforcement and surveillance, especially through CCTV;
- assisting councils and government utilities with the development of Graffiti Management Plans targeting high graffiti environments; and
- allowing local councils to accredit community groups and volunteers to remove graffiti.

Furthermore, in June 2006 the Government passed the Summary Offences (Display of Spray Paint Cans) Act 2006, which requires retailers of spray paint cans to keep their stocks in locked display cabinets. This scheme came into force on 1 November 2006.

These initiatives came on top of the tough penalties that already existed for graffiti-related offences. These offences continue to apply both to adults and young people and include:

- Damaging and defacing property with paint under section 10A of the Summary Offences Act, which carries a maximum penalty of 20 penalty units or 6 months imprisonment;
- Possession of spray paint with intent to use it to damage or deface premises or other property under section 108 of the Summary Offences Act, which carries a maximum penalty of 10 penalty units or 3 months imprisonment;
- Sale of spray paint cans to juveniles under section 10C of the Summary Offences Act, which carries a maximum penalty of 10 penalty units; and
- Malicious damage to property under section 195 of the Crimes Act, which carries a maximum penalty of 5 years imprisonment.

There are also a number of sentencing options that can be used by the courts to deter graffiti vandalism, including:

- Community service orders, which since 1999, have seen young offenders complete 60,000 hours of graffiti removal work;
- Reparation orders requiring the offender to pay compensation toward repair of the damage; and
- Place restrictions and non-association orders.

This bill will complement these existing provisions by giving police the power to confiscate spray paint cans from juveniles where they do not have a lawful excuse for having it.

This will ensure that police have the ability to confiscate a juvenile graffiti vandal's tools of trade, and thereby prevent graffiti offences from occurring in the first place.

I turn now to the details of the bill.

Schedule 1 of the bill creates a new police power to confiscate spray paint cans from people under the age of 18 years.

The officer may seize the spray paint can where they have a reasonable suspicion that:

(1) the person is in a public place;

(2) the person is under the age of 18; and

(3) the person is unable to satisfy the officer that they are in possession of the spray paint can for a lawful purpose.

As I stated earlier, the aim of the provision is to prevent a crime by confiscating the relevant object.

Schedule 2 makes amendments to the Summary Offences Regulation 2005 to create a scheme to regulate the management of seized spray paint cans.

The amended regulation provides that spray paint cans that have been used or that are of negligible value can be disposed of immediately.

If it is not disposed of immediately, the spray paint can must be retained for a period of seven days to allow the person to make an application for its return.

This will allow applications to be made for the return of the confiscated spray paint can if, for example, the person is able to produce evidence that they are in fact over the age of 18 years.

Another example would be if the person was able to produce evidence that they originally had the spray paint can for a lawful purpose, such as if they were an apprentice painter or panel beater.

The amended regulation also provides for an application to a court if the person desires an independent adjudicator on the matter.

I commend the bill to the House.

The Hon. JOHN AJAKA [3.46 p.m.]: The Summery Offences Amendment (Spray Paint Cans) Bill 2007 seeks to amend the Summary Offences Act 1988 in the following manner. Firstly, to authorise a police officer to confiscate a spray paint can from a person in a public place who is under 18 years of age, unless the officer is satisfied that the person has possession of the spray paint can for a purpose that is not unlawful. Secondly, to amend the regulations under the Act to provide the police procedures in connection with the seizure of spray paint cans and procedures for the making of applications for the return of seized spray paint cans. It is not necessary to repeat what members in the other House have said, including the shadow Attorney General, Mr Greg Smith, about the problems faced by today's society caused by graffiti vandalism. I note that 17 members spoke on this bill in the other House. Their comments are recorded in *Hansard*.

As a councillor on the Rockdale council, I am only too aware of the continuing problem of graffiti vandalism. The cost to individuals and the community as a whole is extraordinary. This is an ever-growing disease of our community, one for which a cure has not been found. A number of councils, including Rockdale council, have been forced to increase rates on their constituents to meet the day-to-day costs of graffiti removal. If I recall correctly, Rockdale council was forced to increase its rates to each of its residents by 3 per cent, with the sole purpose of utilising the funds for the removal of graffiti. In the Rockdale council area alone the cost of removing graffiti is in the hundreds of thousands of dollars. This is one council within the entire State of New South Wales. One can only imagine the total cost to the entire State. The cost to the State Government is in the tens of millions of dollars. One has to consider what is the cost to individuals when that is completely totalled. There have been no statistics on this.

One must also appreciate the heartache suffered by those who, for example, construct a new wall at considerable expense, or refurbish or repaint a wall with great pride and joy, only to have some hooligan come along and decide to use it as their own personal canvas for graffiti. This legislation, as indicated, will allow a police officer to confiscate a spray can from a person in a public place if that person is under 18 years of age and should the person not have a lawful purpose for the possession of the spray can. Obviously any person under the age of 18 years who satisfies a police officer that he or she has a lawful purpose will not have the spray can confiscated. A person who proves to a police officer that they are either an artist or, for example, an apprentice who requires the use of the spray can for employment, will not have any concerns about this legislation. A simple question to be put to a young person under the age of 18 years is, "Why do you have possession of the spray paint can?" If no valid or lawful excuse is provided, the police officer can take appropriate action under the provisions of this bill.

The other question to be asked today is: Why does this bill only seek to apply to those under 18 years of age? Surely the problem exists in respect of all those who are over 18 years of age and have in their

possession, without lawful excuse, a spray can. Are we sending the wrong message to those 18 years of age and over? I ask the Government to give serious consideration to this point. I also urge the Government to give further consideration to the tightening of various laws and the imposition of harsher penalties in an attempt to eradicate this continuing and ever-growing problem. The State Government should work closer with local councils and other interested groups to help to eradicate the problem. As I said earlier, the Opposition does not oppose the bill.

Reverend the Hon. FRED NILE [3.49 p.m.]: The Christian Democratic Party supports the Summary Offences Amendment (Spray Paint Cans) Bill 2007. The bill will amend the Summary Offences Act 1988 to authorise a police officer to confiscate a spray paint can from a young person in a public place if the young person does not have a lawful excuse for having it. A number of measures have been taken to tighten up controls over spray cans, and the Christian Democratic Party supports this further initiative. As honourable members have acknowledged, dealing with graffiti costs State government, local councils and individuals a great deal of money. As I travelled along Epping Road recently I noticed that graffiti on the walls of homes had been painted over, but the perpetrators returned and put more graffiti on the walls. That demonstrates the need for this legislation.

If graffiti is not removed from walls in our suburbs there is a tendency for everybody to give up. This has happened with trains and other public transport vehicles. Giving up involves not just a financial cost but a social cost, because it brings about a change in atmosphere and behaviour. Areas with a great deal of graffiti indicate a breakdown in law and order, with no-one really caring. This has happened in some of the larger cities in the United States. Members who have visited some inner-city areas, such as in New York, will have seen this breakdown. We do not want that to happen in New South Wales or anywhere else in Australia. We must continue the battle against graffiti by removing it rapidly and using legislation such as this, which attempts to remove the weapon of the graffitist, the spray can.

I question why this measure is limited to confiscation of spray cans from people under 18 years. I am sure there are some graffitists well beyond their teens, perhaps even compulsive perpetrators. The Attorney General might give some thought in the future to the necessity for such a change in the legislation. I believe it could be argued that the age limit should be removed altogether, giving police the power simply to confiscate spray cans from any person who does not have a lawful excuse for having them. There may be ways, without creating more paperwork, to ban spray cans altogether, or alternatively restrict their availability to only those who need them to carry out their occupations, such as licensed painters. Why should people be permitted to have spray cans if they are having such a negative impact financially and socially? Whatever advantage spray paint cans have in covering scratches on cars and so on is outweighed by the speed with which they can be used to put graffiti on a wall without the perpetrator being apprehended by police. We support the legislation. I am sure the Attorney General will take all these matters into account.

Ms LEE RHIANNON [3.53 p.m.]: The Summary Offences Amendment (Spray Paint Cans) Bill allows police officers to confiscate spray paint cans from minors in public places. It effectively turns possession of a spray can into a strict liability offence. A police officer need not establish that the young person intended to commit an offence; the young person merely needs to be in possession of a spray can without lawful excuse, as deemed by a police officer. Graffiti is a complex issue, and this House has debated it many times. The Greens are concerned about the potential consequences of the bill. We are concerned that it will not achieve its goal of stemming unwanted graffiti, and that in the process it will discriminate against young persons.

In the lower House members' contributions described graffiti as "disgusting", "disgraceful", "a scourge", "ugly" and containing "horrible, unparliamentary words". I do not deny that some graffiti is offensive and costly for property owners and local councils alike. We need to find ways to limit offensive graffiti and ensure that our communities feel safe. But, for many, graffiti is an important form of artistic expression, and it is also an important form of political expression. Culture-jamming has played an important role in many social movements. My colleague Ian Cohen will talk about the legacy of the BUGA-UP campaign, in which he was very much involved. I hope members will listen to his contribution and thereby come to understand that there is another dimension to the debate that usually goes down in this place when we talk about graffiti.

We live in an era in which we are assaulted by commercial advertising at every turn, every corner, every bus stop. So much of our street furniture these days is covered with advertisements that almost jump out at you—from billboards, skywriting, motorbikes with billboards, trucks with billboards, and leaflets on our buses and in the streets. In this context it seems that an offensive message and an ugly advertisement is fine—as long as it is spruiking a product that we have the cash to pay for. Returning to Sydney after a visit to communities in

the Hunter and the western coalfields just last week, I was struck by a massive billboard advertisement on the Pacific Highway. I found the advertisement extremely offensive. It was advertising Hummer vehicles—

The Hon. Michael Costa: I love the Hummer.

Ms LEE RHIANNON: I acknowledge the injection by a member who loves those vehicles. The advertisement showed a menacing and gigantic Hummer bullbar.

The Hon. Michael Costa: They're good too.

Ms LEE RHIANNON: The Treasurer says, "They're good too." So he is into these advertisements. This advertisement was staring down upon traffic. In the upper right-hand corner of the billboard were the words "Now get lost". I find such an advertisement, aggressively pushing a petrol-guzzling vehicle in an era of peak oil, to be inappropriate and offensive. It is plain rude. Advertisers can pay for this privilege. Some of us, like the Treasurer, may like it; others will be offended. The advertisers can put their message up there. Some of us, I think many of us, would be offended by it. But young people are criminalised.

The Hon. John Ajaka: Are you comparing graffiti to advertising?

Ms LEE RHIANNON: Most definitely. We have to look at the society in which we live. As I said at the beginning, some graffiti, such as graffiti on some of our beautiful sandstone, is offensive. The point I make to people who are outraged about graffiti is that this bill will not reduce the incidence of graffiti. This Parliament has debated this issue before.

The Hon. John Hatzistergos: What about the people who sprayed graffiti on the Opera House?

Ms LEE RHIANNON: Don't you agree with the message that was on the Opera House?

The Hon. John Hatzistergos: Yes.

Ms LEE RHIANNON: Precisely.

The Hon. Michael Costa: What about when you painted "No war" on the Opera House? Is that graffiti?

Ms LEE RHIANNON: I am very proud that that slogan went up there.

The Hon. Michael Costa: Shame!

The Hon. John Hatzistergos: This is the good graffiti, is it?

Mr Ian Cohen: He just used the wrong type of paint.

Ms LEE RHIANNON: I acknowledge my colleague's comment. The Greens obviously do not support a free-for-all on graffiti.

Mr Ian Cohen: And they did it in a protest.

Ms LEE RHIANNON: Yes. We do not support a free-for-all on graffiti, although many members might choose to misrepresent it that way. That would be ridiculous. However, we believe that there are different types of graffiti, and that a multi-faceted response that draws in State government, local councils, the community and, most importantly, young people is needed. If members are serious about graffiti they will have to change their approach and involve the people who do it, otherwise they are kidding themselves; they are just on another one of their law and order bents.

Approaching this issue with a blunt law and order instrument is not the right approach, and it will not stop young people from putting graffiti in the wrong places, where it is ugly and often damaging, for instance on the lovely sandstone buildings that are so characteristic of Sydney. This much is clear from the fact that young people continue to spray graffiti despite the increasingly shrill law and order response.

Rather then engaging with young people, the bill gives police wide discretionary powers that may be used to target and intimidate certain groups of young people. Criminologist Chris Cuneen has written extensively about the use—and misuse—of discretionary police powers to intimidate young people who are homeless, indigenous or marginalised in some way. The Greens are wary of granting further discretionary powers to police. There is clear evidence to show how police encounters with young people can quickly escalate from minor charges into more serious charges. The last thing we want is young people being caught up in the judicial system because of some involvement with graffiti—

The Hon. John Hatzistergos: This prevents them getting caught up in it.

Ms LEE RHIANNON: It does not. The Attorney General does not even understand his own bill.

The Hon. John Hatzistergos: You take the instruments of law from their hands.

Ms LEE RHIANNON: "The instruments of law from their hands"—I hope that won't go in *Hansard*.

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

QUESTIONS WITHOUT NOTICE

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SWANSEA BRIDGE

The Hon. MICHAEL GALLACHER: I direct my question to the Treasurer, Minister for Infrastructure, and Minister for the Hunter. Can he advise the House of the projected cost for the new Swansea bridge? In his joint role as Treasurer, Minister for Infrastructure, and Minister for the Hunter and the most senior Government member representing the Hunter community, is it not his responsibility to ensure that funding is allocated, as a matter of urgency, to replace the State's bridges that, as the Treasurer is aware, have suffered mechanical, structural and safety failures on at least 30 occasions in the past seven years, and most recently the closure of one bridge after it became stuck open for 90 minutes, causing traffic gridlock back to Catherine Hill Bay? As $200,000 has been allocated to a management plan, and the member for Swansea has finally joined the campaign for a new bridge, admitting he is "livid about the whole thing", and he has urged the Minister for Roads "a number of times since budget day" to get work started, will the Treasurer overrule his colleague the Minister for Roads and provide immediate funding for an entirely new bridge?

The Hon. MICHAEL COSTA: I am advised that a maintenance program has been developed to maintain the serviceability and reliability of the existing bridges over the coming years. Details of the 2007-08 program were released to the community on 27 August 2007, together with a display. The State budget has allocated $800,000 towards the bridge. I suggest that if the Leader of the Opposition wants any further information he should refer it to the Minister for Roads.

WORKCHOICES FAMILY IMPACT

The Hon. GREG DONNELLY: My question without notice is addressed to the Minister for Industrial Relations. Can the Minister advise the House about the latest Commonwealth data on wages and the impact this is having on working families in New South Wales?

The Hon. JOHN DELLA BOSCA: I would be more than pleased to tell the House about the details of the latest data, but I am unable to do so as my Federal counterpart, Joe Hockey, refuses to release it. The June quarter survey of collective agreements, "Trends in Federal Enterprise Bargaining", was due to be released by Joe Hockey's department in August—as has been the case for the past two years. This data is now two months overdue.

The Hon. Duncan Gay: Disclosure.

The Hon. JOHN DELLA BOSCA: I will disclose it if Joe Hockey releases the data. In fact, the September quarter should also be released well before the Federal election on 24 November. What have Mr Hockey and the Prime Minister got to hide? Are they suppressing this data because it reveals the very outcome that WorkChoices was designed to deliver—that is, cut wages and strip away entitlements?

The March quarter data clearly showed that in the first year of WorkChoices wage increases in private-sector agreements dropped from 4 per cent to 3.5 per cent and more than a third of the agreements lodged during the quarter delivered 3.3 per cent or less. If this trend were to continue, the September quarter would see a reduction in wage increases of more than 50 per cent. The question must be asked: Is Mr Hockey putting pressure on his public servants to suppress the data they have published in the past because it would compromise his electoral position?

But this is not the only raft of WorkChoices-related research and information that Mr Hockey is withholding from the Australian public and Australian families. He is also refusing to release the results of economic modelling, including the impact of increased Australian Workplace Agreements under WorkChoices on the Australian economy because, he says, Australians are "all researched out". We know too much! This is just another pathetic ploy to keep Australian families in the dark about the Howard Government's future plans to put in place even more unfair workplace reforms.

In a further attempt to hide the Howard Government's secret re-election agenda, Mr Hockey has been sitting on the Awards Review Taskforce report about the proposed rationalisation of the current award arrangements since July 2006. This is because he knows that the process of award rationalisation will be incredibly expensive and complex, that it will further disadvantage working families, that it is a disaster for small business, and that this is a decision he cannot afford to make public with an election looming.

Hardworking Australian families want to be informed about the future workplace plans that John Howard, Peter Costello, Nick Minchin and Mr Hockey have for them. They want to avoid a recurrence of 2004, when they were hoodwinked by the Coalition over WorkChoices. They deserve better than to be treated in this arrogant way. If people have any doubts about the Howard Government's secret WorkChoices agenda, Mr Costello signalled further changes this morning when he told a radio host:

> ... to grow the Australian economy ... you need a more flexible industrial relations system. I don't think there is any doubt about that.

He also advised ABL Insight Magazine in 2005 that he would be willing to consider extending the removal of unfair dismissal laws to cover all workplaces. He said:

> I can't tell you there is any magic in the number 100. If this were to work well and people were to say in the years to come it should be extended to all companies I would be very open to the idea.

A Howard Government cannot be trusted on WorkChoices. The only way to ensure that the Howard Government is prevented from implementing further unfair workplace changes under WorkChoices is to throw it out of office on 24 November. Australians deserve a fair and balanced industrial relations system that benefits families, workers and businesses alike.

BELLS LINE OF ROAD

The Hon. DUNCAN GAY: My question without notice is directed to the Minister for Roads. Is the Minister aware that his department, the Roads and Traffic Authority, has reduced the speed limit on most of Bells Line of Road from 100 kilometres an hour to 80 kilometres an hour, seemingly overnight, without adequately warning motorists? Given the Government's embarrassing debacle with speed limit changes in the Lane Cove Tunnel in May, why did it fail to take steps to ensure that motorists were well informed about the speed limit changes on Bells Line of Road? Does the Minister see the irony in his refusal to match the Federal Government's $10 million pledge to investigate an alternative route to Bells Line of Road, when his department now has to reduce the speed limit because of the declining state of the road?

The Hon. ERIC ROOZENDAAL: The Deputy Leader of the Opposition cannot tell the difference between an election stunt by the more and more desperate Federal Coalition and a serious decision made on road safety grounds. I am advised that the Roads and Traffic Authority has rationalised a number of speed zones along Bells Line of Road in order to provide more consistency and improve road safety. The call for this change came directly from the local communities involved. I am advised that the Roads and Traffic Authority has received a number of requests from locals, Hawkesbury City Council, Blue Mountains City Council and the local member for a review of speed limits on Bells Line of Road in order to rationalise the speed limits, particularly from Richmond to Bell.

Speed limits in New South Wales, as in other parts of Australia, are determined by a number of factors, including the surrounding conditions, road alignment, road usage, adjacent development, vehicle types, traffic

volumes, crash history, and the number of access points along the route. This is an operational matter for the Roads and Traffic Authority. It is about having more consistency—18 instead of 22 speed zones. It is also about enhancing road safety. This 72 kilometre length of road has had 706 crashes in a five-year period, resulting in seven fatalities and 354 injuries. Road safety is of paramount importance.

PUBLIC ACCESS TO INFORMATION

Reverend the Hon. FRED NILE: I ask the Attorney General a question without notice. Is it a fact that a major report on public access to information has been released by Irene Moss, the former President of the Independent Commission Against Corruption, on behalf of the Right to Know Coalition of newspapers and community organisations? Is it also a fact that the report claims there have been more than 1,000 court suppression orders, restrictions to freedom of information, more than 500 bills restricting media access, and more than 335 bills containing secrecy provisions? Is it a fact that anti-discrimination Acts and religious vilification laws have also restricted people's freedom of speech, especially in the media and on talkback radio? Will the Attorney General conduct a review of the New South Wales legislation and court suppression orders to ensure greater public access to information?

The Hon. JOHN HATZISTERGOS: I have enormous regard for Irene Moss. When I was the chairperson of the Independent Commission Against Corruption Committee and Irene Moss was the Commissioner I had the opportunity of working closely with her. I also support the principle of open justice. The media have an important role to play in providing fair and accurate recording of court proceedings to the community. A number of legislative provisions and court rules enable the media, in most instances, to access information heard in open court. There are, however, some circumstances where it is not appropriate to provide unfettered access. For example, it is essential that the law continue to protect victims of sexual assault, as well as children, from inappropriate public disclosure of information.

The report of the independent audit into the state of free speech in Australia indicated that in recent years there were about 1,000 suppression or pseudonym orders in force across Australia at any one time. The reference to 1,000 orders is from the national figures of orders made since May 2004. The report indicates that in New South Wales since May 2004 only 107 suppression orders have been made. I understand from the newspaper report I read this morning that the majority of suppression orders were from Victoria. The court determines requests for access to documents and information on a case-by-case basis, having regard to relevant legislation and practice notes. In May 2006 a document entitled "Review of the Policy on Access to Court Information" was released for public consultation. The document was released to encourage further debate on issues of access to court information and to assist in determining what, if any, legislative amendments where necessary to the right of access. The review is continuing and some of the issues raised are not easily resolved. The issues raised in the report are also being considered in the review.

I have also referred the issue of whether we should continue to suppress the names of young offenders in the way we have in the past to the Law and Justice Committee. That committee is in charge of taking submissions, reporting to the Parliament and guiding any future policies that may result in a different position to that taken in the past. I am confident these initiatives will ensure an appropriate balance is struck between the needs of public access to court records and, at the same time, ensuring legitimate interests are protected.

EQUINE INFLUENZA

The Hon. MICHAEL VEITCH: I address my question to the Minister for Primary Industries. On Melbourne Cup Day, can the Minister please update the House on the Government's efforts to contain and eradicate equine influenza in New South Wales?

The Hon. IAN MACDONALD: As the House is aware New South Wales is in the grip of one of the most serious, exotic disease outbreaks this State has seen. Equine influenza was detected in New South Wales on 24 August 2007. Since then the Iemma Government has been waging war against this contagious disease. More than 300 people are working daily towards eradicating the disease and returning life to normal for our horse industries. There is no better day than Melbourne Cup Day to report that we are slowly winning the war. We are making major inroads into the disease and we have strong support from the affected industries.

The Government has spent about $19 million so far on its efforts to eradicate equine influenza from New South Wales. We are running within the estimated budget and there is no doubt there is finally light at the end of the tunnel. Make no mistake, there is a long way to go. There are currently 5,410 infected properties in

New South Wales and about 41,000 infected horses. The rate at which these figures have increased has slowed drastically over the last few weeks. Infection in New South Wales peaked on 26 September and since then has been steadily declining. This is a direct result of the Government's equine influenza protection plan.

The State Government's movement restrictions, zoning plan and extensive vaccination campaigns are delivering success. The most recent evidence is that the Government has moved a large part of New South Wales from a high risk to lower risk zones. Almost half of the red zone of New South Wales—about 4.5 million hectares—was moved to amber zone status last week. All parts of the Coonamble, Moree Plains, Gwydir, Coonabarabran, Coolah and Dunedoo districts have now been changed to amber. Testing has provided us with confidence that those areas are free from disease. This is great news for the thousands of horse owners in these regions. The changes will put them one step closer to becoming an equine influenza green zone and testing will continue to achieve proofoffreedom in the future.

The signal that we are on the right track to eradication is part of a much bigger picture. Our plan to eradicate this disease is now entering its second phase. This includes the continued revision of zoning boundaries; second-round vaccinations targeting 18,000 plus animals; exhaustive proof-of-freedom testing along the North Coast to ultimately move 15 local government areas from amber to green; further testing in other amber zones to move the areas to equine influenza protected green; vaccination priority of uninfected horses in the purple zone; and continued public awareness and education on equine influenza and the importance of biosecurity.

The figures speak for themselves: 60 per cent of New South Wales is protected green zone and 29 per cent is amber—that is almost two-thirds of the State; and 8 per cent of New South Wales is zoned red and 3 per cent zoned purple. These successes represent the single largest advance on the disease since zoning and vaccination began. The Government and its industry partners are happy with these achievements and will continue an all-out assault on horse flu. The Government's wish is that those opposite and their colleagues be just as active, instead of ducking for cover each time a question is raised about how the disease got here.

METROPOLITAN COLLIERY FIRST WORKINGS APPROVAL

Ms LEE RHIANNON: I direct my question to the Minister for Mineral Resources. Has any first workings approval, or any other form of approval, been granted at the Metropolitan Colliery owned by Peabody in the southern coalfields near Helensburg? If so, does this approval form part of a 3A application yet to be exhibited and approved?

The Hon. IAN MACDONALD: If I recall correctly, yes, there was a first workings approval made but the approval gave no further downstream rights in relation to that particular site. It was approved on the basis that there was no actual on-surface disturbance and as part of the process of the company gathering information for a future application.

Ms LEE RHIANNON: I ask a supplementary question. The Minister said at the end of his answer that it was about gathering information. Is it not the fact that there are quite substantial workings in place to set up the mine to allow the longwall machine to come in?

The Hon. IAN MACDONALD: The situation is that there was no disturbance to the surface. This is development work designed to assist in getting approval for extraction of longwall panel 20. Effective rehabilitation of impacts is required to follow the completion of this mining. Any proposal to undermine the significant waterways within the proposed future mining area will require conclusive demonstration that remediation is possible, if necessary, and will be subject to rigorous scrutiny. The Metropolitan Colliery had previously been granted approval to develop the first workings forming longwall 20. This approval lapsed in March 2006. The Metropolitan Colliery advised the Department of Primary Industries that if the development of longwall 20 did not commence then there would be an interruption of future mining operations of between 7 and 15 months and up to 40 employees would be retrenched.

On 20 June 2007 the Department of Primary Industries issued an approval for only 10 of the 30 pillars requested. In making that decision the department took the following into account: the approval of the 10 pillars had been previously approved by the Subsidence Management Plan Interagency Committee; the approval for first workings only would not result in any mine subsidence or surface impacts, as I have said; the approved development was approximately 1,300 metres from the Waratah Rivulet; and the Metropolitan Colliery would maintain jobs for the workforce.

It was made clear to the Metropolitan Colliery that the first workings approval provided no guarantee of future approvals for extraction. The approval letter identified that subsequent approvals and/or conditions of approval may require changes to the orientation or configurations of longwall panels in the mining area and the company would bear any financial risk. In reinstating the approval, the Metropolitan Colliery has been granted sufficient time to undertake an analysis, to submit the strategic management process, investigate options for future mine plans and retain their employees.

GREENFIELD DEVELOPMENT SITES INFRASTRUCTURE LEVIES

The Hon. MATTHEW MASON-COX: I direct my question to the Treasurer. Is it not true that the Government's decision to reduce infrastructure levies on greenfield development sites in New South Wales, is simply an acknowledgement of your failure to adequately address the housing affordability crisis that has seen the cost of new housing blocks increase to a point beyond the reach of most working families? Will you now fast-track access to new development land and provide further relief from State taxes so that working families can realise their dream of buying a home in this State?

The Hon. MICHAEL COSTA: It is ironic that the day the Hon. Greg Pearce is away—

The Hon. Duncan Gay: We are resting the A team.

The Hon. MICHAEL COSTA: Then you gave a flick pass to the B team, by definition. The Hon. Matthew Mason-Cox asked a question on housing affordability. The Reserve Bank has met today and tomorrow we expect a decision from the Reserve Bank on interest rates. Anyone who thinks that mortgage payments are not the basis of current housing affordability problems is out of touch with average families. It seems that tomorrow we will have the sixth interest rate increase following the Prime Minister's promise to keep interest rates at a record low. The Hon. Matthew Mason-Cox was given a hospital pass. If the Opposition wants to do something about housing affordability they have to get rid of the incompetent Howard-Costello Government. The State Government has shown its bona fides. We have put in place a set of financial instruments, which are supported broadly by the community, that provide what is required, that is, land supply and the infrastructure that goes with it.

STATE PARKS PROMOTION

The Hon. TONY CATANZARITI: My question is directed to the Minister for Lands. Can the Minister advise the House about the promotion of New South Wales parks and associated activities?

The Hon. TONY KELLY: I can and I will. Last week I travelled to Copeton Waters State Park, near Inverell, to open the Annual State Parks Conference. Copeton Waters State Park is near the home of the Hon. Rick Colless. I am sure the area is well known to him. Copeton Dam and the adjoining State Park are set in a stunning location. Even with water levels at only 10 per cent, I encourage all members to take the time to head north and visit Copeton Waters. The annual conference is a good chance for staff and boards of the 11 State Parks to come together, compare notes and discuss better ways to manage and promote their parks. The upkeep of the parks is a credit to the volunteer trust boards and staff who invest so much of their own time and effort into maintaining and improving the parks.

While launching the conference I took the opportunity to launch the new State Parks website—*www.stateparks.nsw.gov.au*. It is an excellent, easy-to-navigate site, which promotes the wide range of activities on offer at our State parks. Facilities at each park are listed on the site, as well as details of upcoming events, local attractions and directions on how to get there. There are a number of activities to choose from including barbecues, camping, swimming, water sports and bush walks. For example, by going online people can learn that upcoming park events during the summer holidays include the Copeton fishing festival and the Grabine country muster. They would also discover that most parks have affordable accommodation, ranging from bunkhouses to more luxurious cabins. All can be booked with a few clicks of a mouse.

Most country members would be aware of one or two of our State Parks. As I come from Wellington, Lake Burrendong is part of my backyard and I have fond memories of camping, waterskiing and speed boating on the lake. The Hon. Michael Veitch would be aware of Lake Burrinjuck and its excellent camping and walking tracks. The Hon. Christine Robertson would be familiar with the wide range of recreational opportunities at Lake Keepit. I have no doubt that the Deputy Leader of the Opposition would have visited the shores of Lake Wyangala, or Grabine on the other side, and know about the excellent fishing. The Hon. Melinda

Pavey would be well aware of the Coffs Coast State Park and the surfing, boating, and swimming that families can enjoy there. The website tries to build on this familiarity and encourage people to explore other parks. People who have tried one park are encouraged to try them all. Just get online. I think all members will be surprised how easy it is to discover the range of activities available in our State Parks.

The Iemma Government is always looking for ways to support our State Parks. On top of the $2.6 million already announced this year, today I am pleased to announce further funding for Copeton Waters and Burrinjuck. At the annual conference Copeton Trust members mentioned the demand for more cabins. I have offered a $195,000 loan, which will enable the trust to purchase four new cabins. It means another income stream for the park and more options for holidaymakers. I have also provided $152,000 to help cope with bushfire threats in Burrinjuck State Park. With matching funding from the State Government's Emergency Management Committee and the Federal Government, the money will provide for the installation of fire hydrants and house hose reels throughout the accommodation sections of the park. The Iemma Government supports our State Parks and sees them as a great way to offer affordable recreational and holiday opportunities to families.

FOX CONTROL

The Hon. ROY SMITH: My question, which is directed to the Minister for Primary Industries, relates to foxes in New South Wales and the fact that I sighted one this week in the precincts of Parliament House. Is the Minister aware that the Australian fox population is estimated at 7.2 million and that foxes threaten the survival of several species of native mammals and birds? Further, is the Minister aware that direct fox predation on lambs alone costs farmers more than $100 million a year? Victoria has a bounty that assists in the control of fox numbers. Will the New South Wales Government consider the reintroduction of a fox bounty in an effort to further control one of nature's most destructive predators?

The Hon. IAN MACDONALD: I would have no difficulty with that. At a future date the Hon. Roy Smith could address a similar question to the Treasurer, who may take the issue further. Last weekend I discovered several foxholes on my property. I propose to use a very good method to deal with the problem, that is, get the grader out and reshape the land. That may get me into trouble with Voiceless or Animal Liberation, but I believe that foxes are the most destructive feral animals in the nation.

The Hon. Michael Costa: What about wombats?

The Hon. IAN MACDONALD: They are Aussies. I like wombats. Any program devoted to the eradication of foxes or a reduction in the number of foxes in this State is a good initiative. As I said, the Hon. Roy Smith should address a similar question to the Treasurer.

DRUGS IN SCHOOLS

The Hon. CATHERINE CUSACK: My question without notice is directed to the Minister for Education and Training. What action has the Minister taken arising from the incident at Windang Public School on 15 October 2007 when three students in year 5 were hospitalised after swallowing ecstasy tablets during the lunch break? What penalties or other actions has the school taken as a result of this case? What protocols are in place in association with the Department of Community Services for early identification of families whose drug use may pose a risk to their own children and other students? Are these policies monitored and effective? Is further action needed to protect young students from contact with drugs brought to school by other students?

The Hon. JOHN DELLA BOSCA: I appreciate this very good question from the Hon. Catherine Cusack. A range of protocols is in place in relation to cooperation between the Department of Education and Training, particularly primary schools, and the Department of Community Services. If the Hon. Catherine Cusack wants greater detail, I am happy to provide it. As to the incident at Windang Public School, the main action I took, as the member would probably be aware, was to congratulate the principal and teachers at the school. They demonstrated the high quality and professionalism of teaching staff and principals at our public schools.

The way the school leadership and community handled this difficult situation—the actual event where young people allegedly took ecstasy at or near the school, the subsequent media focus and relevant issues—underlines the professionalism and capacity of the principals, leading teachers and teachers in our public school system. The publicly known facts of the matter are that a young female student at Windang Public School is

alleged to have brought some tablets to school and that she and two other year 5 students consumed those tablets during school hours.

As I said, school staff are to be congratulated on the quick action that resulted in the children receiving urgent medical attention. The incident is of concern and the principal did the right thing. Most members would agree that it was appropriate to notify the police in respect to the initial issues involved. It is important to understand that at the time it was an enormous relief that the children emerged from this incident unharmed. Police are working with the parents of these young children to determine the origin of the tablets. As to the current state of the investigation, it is a police matter and will be properly dealt with by them. At some stage when it is appropriate no doubt the police Minister will provide me with further information about the investigation. I understand that school counsellors have been on site and that a number of issues have been dealt with locally.

The overwhelming evidence, supported by Bureau of Crime Statistics and Research data, is that the problem of illicit drug use in our schools is decreasing. In other words, we are managing the problem effectively due to skilful teachers, strong policies, and a much stronger emphasis on appropriate and sensible discipline with the resources to back that up. Instead of cutting kids adrift we put effort into behaviour management centres, tutorial centres and other initiatives of the Carr and Iemma governments, which have helped to make sure that many of these unsatisfactory and inappropriate behaviours in the school system are brought to book and that more productive things occur.

The overwhelming evidence is that the problem of illicit drugs is on the decline in New South Wales public schools—and one would make the assumption that that is also the case in independent and Catholic schools. The issue of illicit drugs and drug taking is introduced to children from a very young age, in an age-appropriate way, throughout the personal development and health and physical education subjects. I believe we are covering all the bases with respect to this issue. In Windang the principal, the teachers and the school community deserve our support for their response to a difficult situation. [*Time expired*.]

HOMELESS PERSONS LEGAL SERVICE

The Hon. HELEN WESTWOOD: My question is directed to the Attorney General. Will the Attorney General provide the House with the latest information on the New South Wales Government's efforts to assist vulnerable people, such as the homeless, with legal matters?

The Hon. JOHN HATZISTERGOS: Homelessness is a devastating social problem that we as a community cannot ignore. Nearly one third of Australia's homeless population and one quarter of Australia's homeless youth live in New South Wales. That is why the Government is committed to tackling the issue of homelessness. That is why the New South Wales State Plan targets housing affordability, building upon the work of the Partnership Against Homelessness and the Inner City Homelessness Outreach and Support Service. Other State Plan goals include opportunity and support for the most vulnerable and early intervention to tackle disadvantage.

Being without shelter can trigger a host of further social and legal complications. It is our duty to try to help homeless people get back on their feet. The Government provides $14 million a year to legal aid for civil law matters, which goes towards important initiatives such as supporting the Homeless Persons Legal Service. We also support community legal centres, such as the Public Interest Advocacy Centre, which pioneered the Homeless Persons Legal Service. We have invested a total of $4.6 million this year in support of 32 community legal centres across the State.

Last Tuesday I had the pleasure of speaking at the opening of the new Homeless Persons Legal Service Clinic at Bondi Beach. I was joined by the hardworking member for Coogee, Paul Pearce. People do not need an appointment to seek legal advice at the clinic. The clinic operates on a weekly basis, allowing ongoing contact with clients who may not have any fixed address or contact details. A number of clinics are already in operation across Sydney in Potts Point, Woolloomooloo, Parramatta, Surry Hills, Newtown and Darlinghurst. The service's expansion to Norman Andrews House at Bondi Beach is a great step forward, providing legal services every Tuesday to needy people in the local area.

The clinics operate because of the pro bono commitment of nine private law firms and legal aid, which are all members of the Public Interest Law Clearing House. This is a fantastic achievement. I thank all those involved from the following firms in particular: Allens Arthur Robinson, Baker and McKenzie, Corrs Chamber

Westgarth, Deacons, DLA Phillips Fox, Ebsworth and Ebsworth, Gilbert and Tobin, Henry Davis York, Minter Ellison and Legal Aid New South Wales. I was pleased to note that volunteers from the Attorney General's Department will be joining the clinics in a pilot project to provide on-site advice and services relating to court procedures.

In addition, the staff at Norman Andrews House work with the Homeless Persons Legal Service lawyers to help clients address their non-legal needs. For example, they provide breakfast and lunch Monday to Friday to some 40 or 50 homeless men and women. They provide washing facilities, counselling and therapy classes. They offer lockers in which homeless people can keep their belongings. These staff complement the lawyers by helping clients to find accommodation, to deal with Centrelink and to attend appointments. Importantly, homeless people are responding well to the service. I am told that one client was heard singing its praises to another homeless person as he left the clinic, saying:

> I've seen some lawyers in my time and these lawyers are good, real good. They actually listen to you.

The Homeless Persons Legal Service is helping to improve the lives of severely disadvantaged people by bringing legal services to them. Since the launch of the Homeless Persons Legal Service in May 2004 it has assisted more than 1,500 people who are homeless or who are at risk of homelessness. I wish the participants in this project every success in their future endeavours in the provision of hope and help to homeless people.

COROWA MURRAY RIVER DE-SNAGGING WORKS

The Hon. ROBERT BROWN: My question is directed to the Minister for Primary Industries. It relates to an investigation the Department of Primary Industries launched two weeks ago into allegations of improper de-snagging works associated with the development of an ecotourist facility at Corowa. An immediate stop-work order was issued on 26 October by the department—and the Minister's lightning action is to be congratulated. Is the Minister aware that television coverage aired last night on regional television showed the extent of the damage to be far more extensive than that shown in still photographs taken by members of the Southern Riverina Hunting Club? Given the gravity of the situation, could the Minister update the House on what the investigations have so far turned up?

The Hon. IAN MACDONALD: I am advised that the New South Wales Department of Primary Industries has issued a stop-work order. The area under investigation involves a three- to four-kilometre section of the Murray River and two nearby creeks. The order states that all de-snagging works must cease immediately and that any snags removed not be touched. I understand that although Corowa Shire Council issued development consent in May this year, it included strict conditions that no snags were to be moved, relocated or removed without consultation with the New South Wales Department of Primary Industries.

All illegal works are looked upon very seriously and a full investigation is now being carried out. People or groups found to be in breach of the Fisheries Management Act 1994 in this way could face prosecution. The New South Wales Department of Primary Industries is continuing to work closely with the council and other natural resource management agencies in the area during the investigation. A key outcome currently sought by the New South Wales Department of Primary Industries is the remediation of the site to ensure that fish habitat is reinstated in the area of the alleged works while the investigation continues.

CASINOS

The Hon. DAVID CLARKE: My question is directed to the Treasurer. Did the Treasurer make attempts to increase the number of casinos in New South Wales beyond the existing one casino? Why did the Treasurer think that New South Wales would need more gambling outlets when 2.4 per cent of the State's population are considered to be at-risk gamblers? Is it the lure of fat licence fees and increased tax collection that would have the Treasurer increase the level of overall gambling in New South Wales by establishing a second casino in Sydney and a third casino in Tweed?

The Hon. MICHAEL COSTA: The Government has made a statement on this issue. I refer the honourable member to that statement.

MOBILITY PARKING SCHEME

The Hon. PENNY SHARPE: I direct my question to the Minister for Roads. Can the Minister update the House on the latest Government initiatives to improve the Mobility Parking Scheme?

The Hon. ERIC ROOZENDAAL: On 26 October the Iemma Government established a new hotline that allows the public to report abuse of the Mobility Parking Scheme. New rules have also been introduced to improve the integrity of the parking scheme, which is designed to make life easier for people with a disability. These initiatives are priorities under the Iemma Government's State Plan—Priority S7, Safer Roads, and Priority F2, increased employment and community participation for people with disabilities.

Concerned members of the public will be able to contact the hotline on 1300 884 899 and report potential misuse of the Mobility Parking Scheme. Parking cheats need to get the message that they will not be tolerated and that abuse of a legitimate and important scheme for helping people with disabilities will not be permitted. There is a need to improve the way genuine abuse of this scheme is reported to the authorities. This is the next step in reducing abuse of the Mobility Parking Scheme. The hotline will make it quicker and easier for the public to raise concerns with authorities, which will further assess complaints and investigate if appropriate. The Mobility Parking Scheme is designed to make life easier for people with disabilities, not for parking cheats who do not have a conscience.

I commend the Disability Council of New South Wales for suggesting the hotline. The council's chairperson, Andrew Buchanan, is correct when he says parking cheats are making life a misery for people with a disability who genuinely need to park their car as close as possible to their destination. As of late yesterday, 312 people have contacted the Roads and Traffic Authority hotline. Callers to the hotline are required to leave their name as well as the date, time and location of the alleged misuse of the Mobility Parking Scheme card, a vehicle registration number and the Mobility Parking Scheme card number.

New rules have also been introduced to further improve the integrity of the Mobility Parking Scheme. The Roads and Traffic Authority is now able to collect information on the disability suffered by an applicant for a Mobility Parking Scheme card. This means people with genuine disabilities will need to provide medical certification of their disability only once. This move helps to ease the burden on these people and will also help to identify those who may not be genuinely disabled. The Roads and Traffic Authority will also be able to direct Mobility Parking Scheme cardholders to obtain medical certificates as to the nature of their disability. This means that the authority will be able to validate the legitimacy of a card when doubts are raised.

A new offence has also been introduced for Mobility Parking Scheme cardholders who intentionally lend their cards to other people, with a maximum penalty of $2,200. There is now a provision to appeal against Roads and Traffic Authority decisions to revoke Mobility Parking Scheme cards to protect legitimate users. Reforms introduced last year by the Iemma Government mean New South Wales has the highest fines in Australia for motorists who park illegally in disabled parking spots and for those who fraudulently use Mobility Parking Scheme cards. Those fines are up to $477 per offence.

Numerous crackdowns have been conducted over the past 18 months in the Sydney city, North Sydney and Parramatta local government areas. These crackdowns resulted in more than 300 fines being issued and 54 cards being cancelled by the Roads and Traffic Authority in the 12 months to the start of October this year. The Iemma Government will keep working with various peak disability and community groups, including the Disability Council of New South Wales, on further reforms to the scheme. This important scheme is designed to ensure that people with disabilities can enjoy a reasonable lifestyle and have access to services that are available to able-bodied people.

GENETICALLY MODIFIED CROP MORATORIUM REVIEW

Mr IAN COHEN: I address my question to the Minister for Primary Industries. On 26 September I asked the Minister a question regarding the public availability—or, rather, lack thereof—of submissions to the GM Crop Moratorium Review. He replied:

> The honourable member can rest assured that when the papers are handed to me, which will be very shortly, I will release all of the submissions.

Given that the report has been with the Minister for some time now, why are the submissions still being kept out of the public domain? Is the Minister waiting until the GM Crop Moratorium Review decision has been made and the whole thing is a fait accompli before releasing the nearly 1,500 public submissions?

The Hon. IAN MACDONALD: In July I announced the appointment of an independent panel to review the New South Wales moratorium on commercial planting of genetically modified food crops. As the member is aware, that report has been handed to me. The full review report and submissions to the review will

be made available shortly after the Government has analysed and assessed the recommendations made by the independent panel and will be available later in November.

INTERNET BETTING

The Hon. TREVOR KHAN: I address my question to the Treasurer. In view of the actions of the Premier and the Minister for Gaming and Racing regarding Internet wagering, will the Treasurer give an undertaking that any deregulation proposals advanced by the Minister will have no adverse effects on the level of government revenue received from these activities?

The Hon. MICHAEL COSTA: I refer to the Premier's answer in the other House. I heard him answer this question.

SCHOOL AIR CONDITIONING

The Hon. LYNDA VOLTZ: I direct my question to Minister for Education and Training. What is the Government doing to ensure the comfort of students attending schools in the hottest parts of the State?

The Hon. JOHN DELLA BOSCA: This Government believes that school students deserve to study in the best possible facilities. This year alone it is investing $873 million to upgrade and maintain school and TAFE facilities. It is making classrooms and libraries more comfortable for learning in hot weather. Last financial year, the Iemma Government funded 71 new air-cooling projects. This year a further 76 schools will receive air cooling, made possible by $5 million in State funding.

In identifying projects for inclusion in this program, the Department of Education and Training is guided by the Bureau of Meteorology to ensure it addresses the hottest classrooms in the warmest parts of the State first. This year's program is focused on cooling permanent buildings in schools that experience mean maximum January temperatures of 30 to 33 degrees Celsius. The Government also provides respite locations for students with special needs and addresses facilities in schools outside of the hotspot zone but in areas of high heat stress where the design of the building has significant impact on comfort.

Areas to benefit from these new air-cooling projects include six schools in the North Coast, 48 schools in the Riverina, 11 schools in the Hunter and Central Coast, four schools in Western New South Wales, three schools in New England, one school in the Illawarra-South East region and three schools in western Sydney. The New South Wales Government has also delivered ahead of time on its commitment to provide air conditioning to all demountable classrooms. It has also cooled all demountable libraries.

The New South Wales Government uses ecologically sustainable development principles when building new schools and facilities in existing schools. The Greens are supposed to cheer at that point. Obviously they do not care as much as I thought they did. Good design and alignment promotes natural airflow, conserves warmth in winter and reduces heat in summer. It improves the comfort of teachers and students and reduces the impact on the environment. This Government is cooling classrooms across more of the State than its opponents did in the distant past. The Liberal-National administration had an air-cooling program that treated 600 fewer schools than this Government's program.

The return on our investment is better learning environments for students. This Government is proud of its record investment in education. This year it is investing another $11.2 billion. It will commence 24 new major school building projects this financial year in addition to the 42 major building works already underway. The 2007-08 budget includes additional funding for five new trade schools, the renovation of toilet facilities at 68 schools and 57 new security fences. The 2007-08 Minor Capital Works Program includes an allocation of more than $300 million for upgrading of student and teacher facilities and the purchase of computers for schools. This Government is committed to the continued delivery of quality educational facilities for our students and teachers.

LEICHHARDT PARK

Ms SYLVIA HALE: I address my question to the Minister for Lands. Why has the Minister revoked Leichhardt Municipal Council's management of part of Leichhardt Park? Is he intending to sell any of the public land that comprises Leichhardt Park and why did he not consult with the Leichhardt Municipal Council or the community before gazetting the decision?

The Hon. TONY KELLY: I will take that question on notice and get a full and detailed answer in due course for the honourable member. I will refrain from saying anything else.

F6 EXTENSION

The Hon. JOHN AJAKA: My question is addressed to the Minister for Roads. Will the Minister support and match the Federal Government's generous $20 million unconditional pledge for preliminary planning for the extension of the F6 in the Sutherland shire? Will the Minister give a commitment to the commencement of the preliminary planning for the construction of the F6 extension within the St George-Sutherland region given the serious need for the extension in that area?

The Hon. ERIC ROOZENDAAL: I find it interesting that John Howard and the Federal Government had forgotten about Sydney until three weeks before an election. Suddenly they have discovered the roads of Sydney. In a desperate attempt to try to save their political bacon they are now throwing money at everything they can to win votes. Of course, we know that the days of that Coalition Government are numbered. The people of New South Wales and Australia will judge Howard and Costello and throw them out.

The New South Wales Government's position regarding the F6 transport corridor remains unchanged. As I have previously advised the House, the corridor has been in place since 1951. Both the metropolitan strategy and State infrastructure strategy identify the corridor as required for future transport use. It is prudent planning to preserve the corridor between Loftus and St Peters to provide future transport capacity. As I have said, there are currently no plans before the Government for any specific project in the corridor.

I am aware that John Howard has said, in a desperate attempt to try to save himself, that the Federal Government will provide some funding—unspecified—for preliminary and planning works for an F6 freeway. So, we have some funds for unspecified preliminary and planning works to the F6 freeway. Apart from the media release, no further details have been provided. I understand that Jim Lloyd is not available to fill in any of the details because he is desperate in his seat, staving off a campaign against him by an excellent Labor candidate. She is working her butt off to win the seat. I am sure she will be successful.

I welcome the Federal Government's discovery of Sydney's roads in the past week. It has taken the Federal Government only 11½ years to realise the national economic importance of Sydney's roads. It has an apparent newfound willingness to spend some of its multibillion-dollar surplus. It collects $14 billion in fuel taxes from motorists. Does it return that to the people of New South Wales? No, it does not. Until the Federal Government provides some detail of exactly what it is planning, the New South Wales Government position on this issue will remain unchanged.

DROUGHT

The Hon. CHRISTINE ROBERTSON: My question is to the Minister for Primary Industries. Will the Minister update the House on the drought situation currently facing New South Wales? Has recent rainfall made any difference to farmers?

The Hon. IAN MACDONALD: I thank the honourable member for her continued interest in this vital issue for the people of New South Wales. Despite heavy rainfall in many parts of the State over the weekend, the drought continues to hold most of rural and regional New South Wales in its grip. Recently it was my grim duty to announce that 78.6 per cent of New South Wales is in drought—up from 71 per cent. Another 12.1 per cent is now marginal. Until the past few days, the cropping belts and pastoral zones had virtually no rain for many months. That changed on the weekend, when parts of New South Wales received a deluge of rain. Unfortunately, it was too late to make a big difference to most of the State's winter crop. I am pleased to report that some areas have been lucky. Grafton received 90 millimetres of rain; Moonan Flat, 75 millimetres; Eden, 83 millimetres; Lismore, 91 millimetres; Bathurst, 71 millimetres; and Orange, 87 millimetres. That is very good. I enjoyed it a lot.

The Hon. Duncan Gay: We got 70-odd millimetres.

The Hon. IAN MACDONALD: The paper said Crookwell got nothing.

The Hon. Duncan Gay: We are on the other side of Crookwell. Crookwell did get rain.

The Hon. IAN MACDONALD: Okay. The website reported that it did not. Farmers who have late cereal crops in on the tablelands and upper slopes around Coolah, Dunedoo, Goulburn, Bathurst and Orange will get a great boost out of these falls. Crops east of Young across to Boorowa and Cootamundra will benefit because they are still green and reaching maturity. The best crops in these areas are now expected to reach two tonnes a hectare. There is no doubt pasture growth will kick along nicely for the next few weeks at least because of the recent rains. Grafton received 90 millimetres. A number of areas did well. But, as a whole, our farmers needed these falls five to six weeks ago. They needed rain to fall before crops started struggling under warmer weather and depleted subsoil moisture.

I have been told that in some parts of New South Wales—such as the western Riverina and west of Coonamble and Walgett—some farmers will not even get their harvest machinery out of their sheds. Cereal, pulses and oilseed crops in the worst drought-affected parts of New South Wales—including Junee, Wagga Wagga, Griffith, Lockhart, Walgett, Coonamble and Dubbo—have already been cut for hay. Where rain fell on yet-to-be-baled hay, farmers are reporting damage that will reduce quality. More rain will make matters even worse. Some hay will rot on the ground and be of no value. There is no doubt much of the estimated winter crop is now lost due to the ongoing dry conditions. Estimates are down 40 per cent to 2.82 million tonnes. Given that at the beginning of the season we predicted 10 million tonnes, one can see the catastrophe across the State

Wheat and barley are among the crops hardest hit. As a result, everything from bread to beer could cost a little more as Christmas approaches. Meat, eggs and milk could cost a little bit more as the drought refuses to release its grip. Production estimates for winter crops have fallen as the lack of rain, above-average temperatures and drying winds of the past two months decimated winter cereal, oilseed and pulse crops. I am sad to say that the impact of deteriorating conditions is being felt across all sectors of the rural community, including agribusiness and grain trading companies. We are facing a challenging time in coming weeks. I urge farmers to get all the available advice and support possible as they deal with tough financial management decisions. Farmers can rest assured that the Government remains committed to the farming sector. Through programs such as the transport subsidy scheme we will continue to provide help where we can. We have committed more than $340 million in assistance, and this will continue to grow as the drought continues. Our commitment is to stand by farmers throughout this drought.

TAFE COLLEGE GOVERNANCE

Dr JOHN KAYE: My question is to the Minister for Education and Training. Is the Minister aware that the TAFE Directors Association is funded from public money? Is the Minister also aware that the TAFE Directors Association's media release of 25 October, titled "burbs & bush", calls for political parties to commit to TAFE institutes becoming independent, with governance arrangements matching those of universities? Does this statement contradict the Government's policy on the governance of TAFE colleges and institutes? Will the Minister seek legal advice to determine whether the Industrial Relations Act has been breached by an industrial association being funded from public moneys?

The Hon. JOHN DELLA BOSCA: The member is surprisingly liberal in his thinking about the Government and people's liberties. The Government funds all sorts of organisations, directly and indirectly, who seek to advise and play a role in public policy debate as part of their activities. Clearly, TAFE institute directors as part of their activity have formed a view. That view is not consistent with the Iemma Government's policies in some respects, and in some respects it is a view that we would take some account of. But I think the member is being overly sensitive and I do not think I would be troubling the Crown Solicitor or anyone else to seek advice about the status of any publication or any view that the TAFE institute directors might offer one way or the other. As I said, all sorts of organisations—conservation organisations and other organisations—have views from time to time that are not necessarily consistent with government policy, but we take into account those views also. That is a sign of an open government, prepared to accept different views along the way to developing good and sound policies.

HUNTER RIVER TOURLE STREET BRIDGE

The Hon. ROBYN PARKER: My question without notice is to the Minister for Roads. Will the Minister explain why $47 million of taxpayers' money will be spent on replacing the two-lane Tourle Street Bridge in Newcastle with another two-lane bridge, when this money would be better spent on constructing a four-lane bridge now and not in 10 years?

The Hon. ERIC ROOZENDAAL: An amount of $16 million has been allocated in 2007-08 to commence construction of the Tourle Street Bridge on Nelson Bay Road at Kooragang Island. The contract was

awarded to Daracan Constructions Pty Limited in August, with work commencing on site in October this year. The Tourle Street Bridge was built in 1965. It is being replaced because the concrete deck and supporting steel stringers are showing evidence of fatigue and it is no longer effective to carry out ongoing repairs. The total estimated cost of constructing a new two-lane bridge is $47 million. A two-lane bridge has sufficient capacity for 10 to 15 years based on current growth rates. Following construction of the new bridge, the old bridge will be demolished. The site of the old bridge can be used in the future to construct a second bridge when a four-lane carriageway is required. The Roads and Traffic Authority expects early works to include utility adjustments and work on the bridge substructure, including acquisition of piling tubes and pile driving.

REGIONAL BUSINESS DEVELOPMENT

The Hon. HENRY TSANG: I ask a question of the Minister for Regional Development. Can the Minister outline the work being undertaken by the New South Wales Government and local councils to attract businesses to regional New South Wales?

The Hon. TONY KELLY: A key commitment of the Iemma Government is to secure economic investment for New South Wales. It is fundamental for economic growth and, most importantly, for the creation of jobs. Since the March election the Iemma Government has approved 138 projects worth $5.74 billion to the State's economy and more than 25,800 jobs—and that is just since the election. Since the major projects system was introduced a little over two years ago, we have approved projects worth nearly five times that much. The diversity of the New South Wales economy has always been one of our strengths, and the only way we can continue to stay strong is by looking for new investment opportunities and new business partners. A key to the Iemma Government's strategy to build regional economies is to work closely with local councils and in particular their economic development officers.

I am pleased to inform the House that New South Wales recently hosted the second National Economic Development Conference, on 31 October 2007 and 1 November 2007, at Darling Harbour. More than 200 economic development officers, predominantly from local government from across Australia and beyond, attended the conference. I was able to meet the chairman of the International Economic Development Council, Ronnie Bryant. The conference provided insights into economic development management strategies being adopted by local governments and economic development organisations across the globe to drive job creation and investment.

The New South Wales Government was a gold sponsor of the 2007 National Economic Development Conference. Our sponsorship is one tangible demonstration of our ongoing strategic commitment to working with the Economic Development Association and local councils in New South Wales. These people are at the coalface of regional business development, they are often the first port of call for a new business wanting to establish or relocate to an area. They are important partners in the Iemma's Government drive to encourage business development and investment, especially in regional New South Wales.

The results of our joint determination to keep the State's economy strong can be seen in the recent employment levels. The September labour force statistics show that employment in New South Wales continues to be very strong; there were 3.37 million people in employment, an increase of 2 per cent on the previous year. Regional New South Wales is also getting stronger. Employment in regional New South Wales increased by 3.9 per cent from September 2006 to 2007—despite the worst drought we have ever been through—and the labour force participation rate now stands at 60 per cent, the highest since 1988. However, we know that we cannot afford to become complacent.

The Iemma Government recognises that the State economy faces significant challenges—including increased global economic competition, as well as constraints on the availability of resources and attracting a skilled workforce. With that end in sight the lemma Government has been encouraging initiatives that create a diverse economic base, not just in Sydney but also across rural and regional New South Wales. A key to facilitating economic diversity and growth is the State Government's partnerships with local councils, industry groups and community organisations.

However, the missing part of this equation is of course the Howard Government. If one wants any more evidence on how the Federal Government has dropped the ball on regional development, one need look no further than the skills crisis. The latest example of its inaction on skills is the announcement that Rex will slash a third of its flights to Wagga Wagga and has cancelled its Sydney to Cooma service until May next year. The reason the airline cites is a lack of trained pilots. All of this is in the lead-up to the Christmas holiday season,

making it harder for country families to get together at this important time of the year. I understand that the Rex plane to Wagga Wagga is called the Kay Hull after the local Federal member of The Nationals. No doubt the first plane that will be mothballed will be the Kay Hull. I strongly suggest to the voters of Wagga Wagga that they should adopt a similar approach to their local member in three weeks time. [*Time expired.*]

LEICHHARDT PARK

The Hon. TONY KELLY: Earlier Ms Sylvia Hale asked me a question about Leichhardt Park. I have further updates. I would particularly like to enlighten the House on the background of this particular matter and Leichhardt Municipal Council. The background to the matter goes back to the early 1990s, when the former APIA Leichhardt football club occupied the building now occupied by Le Montage function centre. Leichhardt council gave consent to the APIA club, and the club undertook the following works without the input of the Department of Lands. It constructed an addition to the building of an entry foyer on the reserve, thereby creating an encroachment on the reserve; denied access to Fraser Street to the building, which created a situation that only unauthorised access could be gained to the site using a road within the reserve; and allowed the expansion of a former car park and entry to the building over the reserve.

The Department of Lands recently took over the management of part of Leichhardt Park that adjoins Le Montage function centre. Over the years, Leichhardt council has allowed Le Montage and its predecessor, the APIA Soccer Club, to encroach onto Leichhardt Park. Council has also insisted that vehicular access to the function centre be via a Crown reserve. We have an unofficial road and encroachments on a reserve that could potentially expose council ratepayers and New South Wales taxpayers to liability. A plan of management for Leichhardt Park was adopted in July 2005, which addressed these anomalies.

In March 2006 I advised the then mayor, Councillor Nick Dyer, that the proposed leasing arrangements would be managed by the Department of Lands and that the land that council has named Mali-yawal Street could be retained as part of Leichhardt Park rather than council being required to purchase it as a public road. I expected council to amend the plan of management to reflect these decisions and to progress the proposed sale to Le Montage. Despite a number of requests to finalise the plan, no documentation has been forthcoming. I have now reviewed the situation and directed the department to finalise the lease and sale negotiations as a matter of priority. To facilitate these negotiations, the affected part of Leichhardt Park has now been placed under the control and management of the Lands Administration Ministerial Corporation. Council will be consulted as part of these negotiations, and I will meet with council shortly.

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

Questions without notice concluded.

DEFERRED ANSWERS

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

POKER MACHINES

On 26 September 2007 Reverend the Hon. Dr Gordon Moyes asked the Minister for Primary Industries, representing the Minister for Gaming and Racing, a question without notice regarding poker machines. The Minister for Gaming and Racing provided the following response:

1. The Liquor Administration Board is responsible for the approval of poker machine games and equipment in NSW. Before any machine is approved it must comply with technical standards. Those standards require that the maximum bet on any standard poker machine game must not exceed $10—irrespective of whether that machine is a 1 cent or $1 machine.

2. The $10 maximum bet limit has been in place for a number of years and continues to remain in place. The maximum bet limit ensures that a person cannot stake more than $10 on any one poker machine game at any one time, irrespective of its denomination.

3. The issue of pop-up messages in gaming machines is being examined as part of a NSW Government commissioned review of liquor and gaming signs. The review is expected to be finalised later in 2007.

With regard to the issue of lower cash out limits on ATMs in gaming venues the NSW Government attempted to address this issue at a national level through the Ministerial Council on Gambling. The Council was

unsuccessful in negotiating an arrangement with the finance sector, and the Australian Government refused to invoke any of its powers over the banking or financing sector is this regard.

Gaming venues are currently required to locate ATMs away from gaming machines. Fines of up to $5,500 apply if ATMs are placed in a part of a hotel or club where gaming machines are located.

HAVENLEE SPECIAL SCHOOL

On 26 September 2007 the Hon. Robyn Parker asked the Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance, a question without notice regarding Havenlee Special School. The Minister provided the following response:

Since 1996, the NSW Labor Government has installed more than 570 security fences in schools across the state at a cost of more than $55 million. During 2007/08 59 security fencing projects are planned to be completed at a cost of $10.5 million. These projects form part of the Building Better Schools Program, under which 200 schools will receive security fencing over the term of the current government at an estimated cost of $39 million.

It is worth noting that prior to 1996, none of the state's public schools had security fencing.

Havenlee School has been identified by the Department of Education and Training for the provision of security fencing. This project is included in the NSW Labor Government's Building Better Schools Program and will be provided within the term of the current Government.

PORT MACQUARIE-HASTINGS COUNCIL SECTION 740 INQUIRY

On 26 September 2007 the Hon. Robert Brown asked the Minister for Lands, representing the Minister for Local Government, a question without notice regarding the Port Macquarie-Hastings Council section 740 inquiry. The Minister for Local Government provided the following response:

I will briefly outline a chronology of the events leading up to the Public Inquiry into Council's handling of the Port Macquarie Arts, Conference and Entertainment Centre—also known as the Glasshouse.

The Department of Local Government undertook a Promoting Better Practice review into Port Macquarie-Hastings Council in March 2006.

These reviews act as a health check on council operations.

As a result of this review and numerous representations to the Department and the former Minister for Local Government about Council's handling of the Glasshouse project, a formal investigation was conducted under section 430 of the Local Government Act.

That investigation made one recommendation—that a Public Inquiry be held.

I acted on that recommendation and announced the Inquiry in July this year.

The Public Inquiry is now under way.

In regard to the conduct of Public Inquiries under section 740 of the Local Government Act, it is common practice for a Public Inquiry to seek the views of the Department of Local Government in writing.

It is also possible that the Department may give evidence directly to the Inquiry.

This happens at the discretion of the individual commissioner—who is independent of the Minister for Local Government or the Department of Local Government.

I should also inform the Honourable Member that the Commissioner, Mr Frank Willan, is not a member of staff of the Department of Local Government.

Under section 740 (2) of the Local Government Act 1993, a Commissioner has the powers, authorities, protections and immunities conferred upon a commissioner by Division 1 of Part 2 of the Royal Commissions Act 1923.

I find it astounding that the Honourable Member would think that the Inquiry operates in isolation and not take into account the Department's views, which in effect provides the regulatory framework for local government.

SECURITY GUARD FIREARMS

On 27 September 2007 Reverend the Hon. Dr Gordon Moyes asked the Minister for Roads, representing the Minister for Police, a question without notice regarding security guards firearms. The Minister for Police provided the following response:

The NSW Police Force has advised me:

Strike Force Brittania was formed in February 2007 to investigate the series of armed robberies to which the Honourable Member's question refers. As at 2 October 2007, the Strike Force had arrested 12 offenders and laid 43 charges.

Section 12(4) of the Firearms Act 1996 allows 'business or employment' as a genuine reason for possessing firearms and it is under this section that applications from security firms are considered.

Armed security guards receive nationally recognised training in the carriage and use of firearms, which is consistent with the national firearms agreement. They also undertake extensive training in the competencies of determining responses to security risk situations and controlling such situations using firearms, including minimising the risk of danger to by-standers.

The law of self defence in NSW is set out in the Crimes Act as interpreted by the Courts. Neither the Security Industry Act nor the Firearms Act varies those provisions.

ROYAL NORTH SHORE HOSPITAL PATIENT CARE

HOSPITAL EMERGENCY OBSTETRIC TREATMENT PROTOCOLS

On 27 September 2007 Reverend the Hon. Fred Nile asked the Attorney General, representing the Minister for Health, a question without notice regarding Royal North Shore Hospital patient care and hospital emergency obstetric treatment protocols. The Minister for Health provided the following response:

That the Minister for Health has publicly acknowledged that that treatment provided to the patient at Royal North Shore hospital was not acceptable. Women threatening miscarriage need a better standard of care.

As a result of the patient's experience on 25 September 2007, on 26 September the Minister called for an independent inquiry under Section 122 of the Health Services Act into the treatment and care provided.

The inquiry was conducted by Professor William Walters AM, Executive Clinical Director of the Royal Hospital for Women Randwick, and Professor Cliff Hughes AD, Chief Executive Officer of the Clinical Excellence Commission.

The report was handed to the Minister on 26 October 2007 and made twenty two recommendations in relation to the treatment and care provided to the patient, and the current practices and protocols as they relate to the management of miscarriages at Royal North Shore Hospital and other hospitals within the NSW public health system. The NSW Government has accepted all twenty two recommendations.

The NSW Government has asked the Director-General of Health to develop an implementation plan with a view to rolling out the recommendations of the Hughes/Walters Review as soon as possible.

The findings of the report are publicly available on the NSW Health website.

FIREARMS SPORTS STORE ZONING LAWS

On 27 September 2007 the Hon. Roy Smith asked the Treasurer, Minister for Infrastructure, and Minister for the Hunter, representing the Minister for Planning, a question without notice regarding firearms sports store zoning laws. The Minister for Planning provided the following response:

The prohibition and /or restriction of the sale of firearms is a matter that is already the subject of joint national and state government policies. As a matter of principle, I would not support any new regulations other than case by case considerations under the development assessment process which is guided by the Environmental Planning and Assessment Act.

In relation to the Kurringai matter my Department is currently considering the matter within the framework of the EP&A Act.

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Report: Review of the 2005-2006 Annual Report of the Independent Commission Against Corruption

Reverend the Hon. Fred Nile tabled report No. 1/54, entitled "Review of the 2005-2006 annual report of the Independent Commission Against Corruption", dated November 2007.

Ordered to be printed on motion by Reverend the Hon. Fred Nile.

Reverend the Hon. FRED NILE [5.07 p.m.]: I move:

That the House take note of the report.

For the benefit of members, I will quote the foreword by the Chairman, Mr Frank Terenzini:

In its first report to Parliament the Committee on the Independent Commission Against Corruption focused on the post-investigation stage of an ICAC inquiry, that is the process by which ICAC assembles evidence obtained during its investigations which may be admissible in the prosecution of a criminal offence, and furnishes this evidence to the Director of

Public Prosecutions. This is one of the principal functions conferred on the ICAC and holds significant public interest implications in respect of the efficient prosecution of criminal offences arising from ICAC investigations.

Debate adjourned on motion by Reverend the Hon. Fred Nile and set down as an order of the day for a future day.

SUMMARY OFFENCES AMENDMENT (SPRAY PAINT CANS) BILL 2007

Second Reading

Debate resumed from an earlier hour.

Ms LEE RHIANNON [5.08 p.m.]: I am pleased to have the opportunity to continue the debate on the Government's latest graffiti bill. The best and politest thing that can be said about this legislation is that it is a sledgehammer being used to crack a nut. The bill gives police wide discretionary powers that may be used to target and intimidate certain groups of young persons. Criminologist Chris Cunneen has written extensively about the use and misuse of discretionary police powers to intimidate young persons who are homeless, indigenous or marginalised in some way.

The Greens are wary of granting further discretionary powers to police. There is clear evidence to show how police encounters with young people can quickly escalate from minor charges into more serious charges. Let us imagine what could happen once this legislation is passed. A potential scenario that could arise from the bill is that a young person is approached at a train station, police use their extensive search powers to rummage through the young person's bag, and they find a spray paint can. The officer asks the young person, "Do you have a lawful excuse?"

The young person does not know what is going on or why he has been approached: in his mind he has not done anything illegal. The young person cannot verify that he is an apprentice painter or an artist, so the spray paint can is confiscated. The young person reacts against this, perhaps swears, or even resists having what he regards as his property taken from him. The next thing you know, the young person is charged with offensive behaviour and potentially could be arrested or fined. This is not an unlikely scenario. We know that this trifecta often happens when young people get caught up—

[*Interruption*]

The Attorney General has just muttered to me, "It's not about that." But that is what the law does.

[*Interruption*]

I will be interested to hear what the Attorney General has to say about how the scenario I have outlined under this legislation is wrong.

The Hon. John Hatzistergos: You should vet these speeches before you read them.

Ms LEE RHIANNON: That comment is extremely insulting. This is my speech, and it is up to the Attorney General to say how the scenario I have outlined is wrong. Any reading of this bill shows that that is what could happen. We need to work to create more positive relationships between police and young people. Expanding police powers to allow them to take items from young people without their permission, and seemingly without good reason, does not lay the basis for positive relationships. The Greens acknowledge that the bill outlines procedures for the return of seized spray paint cans. Perhaps this is what the Attorney General was referring to when previously he said the scenario I outlined could not possibly happen.

Proposed section 10F provides for an application to be made to the court for the return of the seized spray paint can. This supposedly provides a balancing mechanism—I am sure the Attorney General would love to use that language—to ensure that a young person's possessions are not wrongly seized. That is simply the Attorney General's spin. One must ask: Is this a realistic scenario? Members of this House would have to acknowledge that it is far-fetched to expect a 15-year-old to go to section 10F of the Act to learn how to make a court application and have their possession returned. If that is what the Attorney General bases his argument on—trying to make out that the scenario I outlined is wrong—I do not think he reads his own bills.

The Hon. John Hatzistergos: They can go to the Ombudsman.

Ms LEE RHIANNON: Now he has got even better! We have to get this one in *Hansard*. The Attorney General says that young people can go to the Ombudsman.

The Hon. John Hatzistergos: That's right.

Ms LEE RHIANNON: This is ludicrous! One has to ask: Does the Attorney General read his own legislation? Is he vetting his own legislation? Commonsense would say that the provision is not a fair balancing mechanism. I would like to see statistics in five years of how many times a young person has successfully gone down this path. The bill is little more than window-dressing, and the Attorney General should have the honesty to admit that. Stringent laws are already in place to punish graffiti offenders. I refer to penalties set out in the Crimes Act 1900 and the Summary Offences Act 1988 to deal with graffiti vandalism.

The Hon. John Hatzistergos: That's right.

Ms LEE RHIANNON: The Attorney General and I agree on this. Under section 195 of the Crimes Act 1900 a person who maliciously destroys or damages property belonging to another can face serious penalties, including fines, community service work, and up to five years imprisonment. That is no small fry. The Government already has those penalties in place, so why does it need to introduce this bill? It is rare for New South Wales Labor or the Coalition to take a constructive approach to young people and criminal law. Graffiti is an issue of serious concern for many community members and councils. Boundaries are needed to stop offensive and inappropriate graffiti. But it is no use simply rejecting graffiti out of hand. This will not work—whatever perspective one brings to the debate. The conservative parties in this House continually get together and bring forward graffiti bills, but not much changes in the community. Surely they should be reassessing how they are handling the issue, if they really want to get on top of what they perceive as a major problem.

Years ago the Parliament passed laws to prohibit the sale of spray paint cans to people under the age of 18. Just last year the Parliament passed laws to lock away spray paint cans in shops. Despite these measures graffiti vandalism continues. The Government has presented no evidence that the graffiti vandalism laws are working. The bill simply tightens the screws, regardless of whether the laws are effective. The Government needs to assess whether its laws are working before it simply regurgitates another law. From the way the Attorney General is responding it seems that he is not even sure how it works. We need a more creative response—not more law and order window dressing.

The Greens support increased funding for innovative approaches to the graffiti issue—approaches that involve young people, such as dedicated walls for graffiti art and graffiti competitions where young people can legitimately display their work and where the community can acknowledge the contribution and talent of these people. Around the world projects that have succeeded in reducing graffiti—that is what all the conservative members say they want to do, so this is how they can do it—generally involve the graffiti artists themselves. The bill simply locks them out and criminalises them.

Closer to home, there are many great examples of New South Wales councils working together with young people to address graffiti. Newcastle City Council, for example, has a dedicated mural wall near South Newcastle beach for young people to carry out graffiti. I understand from local councillors that this has been a successful initiative, that it is basically a self-policing project by the young people involved, and that it has given young people some ownership and pride in their work.

The initiative is coordinated through the Newcastle Youth Venue, which is near the mall in Newcastle's central business district. I congratulate Newcastle City Council and the council workers at the Newcastle Youth Venue on their work, as well as the other councils around the State who are working with young people to creatively address graffiti in their local area. I hope that from that example the Attorney General will learn some lessons and will consider the best way to handle this issue constructively.

Mr IAN COHEN [5.17 p.m.]: I wish to add a few words to those of my colleague Ms Lee Rhiannon, who led for the Greens on this bill. The bill requires young persons found in possession of spray paint in a public place to establish that the person has the spray paint for a legitimate purpose, and gives police the power to confiscate spray paint cans from persons under the age of 18 if the person does not have a lawful excuse for having it. But what is legitimate, and how does one establish legitimacy in terms of art and freedom of expression? There is an interesting debate to be had in regard to what is art and how it is valued, and the place of street art in this framework.

It is also interesting that the bill specifically deals with persons under the age of 18 years. There are already laws to stop persons under the age of 18 buying spray paint cans, but under the bill spray paint cans will also be confiscated. There is a perception that if an artwork is in a gallery it is legitimate but if it is painted on a

wall it is not legitimate. Concepts of art are constantly being turned upside down and graffiti or street art is finding some recognition in the world of art. This concept has recently been explored in a documentary series screened on the ABC titled "Not Quite Art".

[*Interruption*]

In response to the interjections, I do not think any member of this House would argue against the suggestion that a significant amount of graffiti does not qualify as art, and that there are areas, particularly our natural sandstone areas, in which graffiti is a problem. But the way the Government is dealing with the issue, by introducing this bill, is typical of the way the Government makes itself look good for certain mass media—it gets the spin right, but does not seriously address the problem. As Ms Lee Rhiannon said, there is merit in looking at how we deal with the graffiti problem but we must also acknowledge that street art, or graffiti art, is often at the forefront of political campaigning, and that it is a creative energy that is part of our society. As with so many other things, governments seek to suppress graffiti art, or seek to put a lid on the whole thing. But that does not work. Time and again in many debates in this House we have seen this type of reaction by the Government and its supporters, such as Reverend the Hon. Fred Nile, but it does not work. We need to find another method of dealing with the issue.

In Melbourne the laneways were revitalised by small bars and artists—interestingly that reflects the legislation we have seen promoted by Clover Moore in recent times—in an attempt to revitalise the cityscape and utilise those areas by creating small establishments to proliferate through the city and move away from the mass pub scene. Many of the Melbourne artists were graffiti artists. Their graffiti-covered laneways are now tourist attractions drawing international and local tourists. The *Lonely Planet* guidebook has nominated the graffiti covered laneways of Melbourne as the number one cultural attraction in Australia. That may elicit humour from some on the Government side but this is a legitimate building up of the culture of our society.

Reverend the Hon. Fred Nile: Does it elicit humour from the owners of the buildings?

Mr IAN COHEN: I acknowledge the interjection; maybe sometimes yes and maybe sometimes no. I agree with Lee Rhiannon that creating situations where people have an opportunity to engage in street art on designated areas is the most effective way of dealing with the problem. Some street artists have gained worldwide recognition and their work is now very valuable. A collection of street art has become a collector's item. The United Kingdom artist Banksy sells his work for hundreds of thousands of dollars. Who is to say that street art cannot be valuable in the more traditional and financial valuations of art? Who is to say that some of our under 18s will not some day be venerated as established artists? Who are we to take away their tools of art?

One of the most famous, or should I say infamous, French graffiti artists does all his or her work with paint and a brush: it is not only spray cans. If frustrated by the reaction of the Government and the police, young people will find another medium to proliferate both good and bad graffiti art. What will the Government and the police do then? Will they ban everybody under the age of 18 years from walking around the street with a paintbrush? You cannot successfully deal with it that way.

Reverend the Hon. Fred Nile: If they are carrying a big can of paint you can.

Mr IAN COHEN: If they are carrying a big can of paint they may be able to explain that in other ways. We need to focus and channel this type of activity rather than totally inappropriately react to it. The weekend edition of the *Sydney Morning Herald* of 3 to 4 November 2007 ran an article entitled "Graffiti guerrilla has a spray at capitalism". The United Kingdom graffiti artist Banksy, who is making a motza from his art these days—

Reverend the Hon. Fred Nile: He is becoming a capitalist!

Mr IAN COHEN: Whatever. Is Reverend the Hon. Fred Nile going to deny him the opportunity to make money out of good quality graffiti art? Reverend the Hon. Fred Nile cannot have it both ways. I quote from the *Sydney Morning Herald* article:

> To some he is a mystical being who holds a spray-painted mirror to society. Under the cover of darkness and armed with aerosol cans and stencils, he leaves his acerbic, insightful, funny art works around the walls and streets of London and beyond.
>
> To others, he is a common vandal: a … grimy, hood-wearing, self-promoting, over-hyped destroyer of other people's property who should keep his "art" on the canvas.

> It is this latter group that welcomed the decision last week by the councils of Hackney and Tower Hamlets, in East London, to blast the many works of Banksy, the anonymous guerrilla graffiti artist, from their walls. Where his fans and wealthy buyers see brilliant artwork, the councils see vandalism.
>
> … his messages tend to be anti-capitalistic and anti-establishment: a starving African child wearing a Burger King party hat; Jesus on the crucifix with Christmas gifts hanging from his hands; a kneeling, hooded Guantanamo Bay inmate; two male coppers kissing passionately.
>
> Banksy's trajectory has taken his work from the streets to the auction rooms. In October the auctioneer Bonham's sold 11 of his works for £540,000 …

That is about $1.2 million.

> … Brad Pitt and Angelina Jolie are collectors—

As are other artists. The article continues:

> "If they fall out with their mum and dad, they want to express themselves … Someone who writes their name or draws a picture very big on a wall wants someone to pay attention."
>
> Street art is susceptible to being painted over, cleaned off or even vandalised, so Banksy has immortalised his work in four books. In *Wall and Piece*, he clearly draws the battle lines. "The people who run our cities … think nothing has the right to exist unless it makes a profit," he writes. "The people who truly deface our neighbourhoods are the companies that scrawl giant slogans across buildings and buses trying to make us feel inadequate unless we buy their stuff … Well, they started the fight and the wall is the weapon of choice to hit them back."

Reverend the Hon. Fred Nile might comment at some stage on this matter.

Reverend the Hon. Fred Nile: I have already spoken.

Mr IAN COHEN: That is unfortunate because I am about to come to a point that might be of interest. Design and art magazines often feature aesthetics that are derived from street art, such as graffiti. It is also becoming more predominant in the commercial marketing world. Unfortunately governments seem to desire to impose sterile public environments. Certainly some find graffiti offensive. That is often the case with any form of art. The big exception in terms of visual bombardment, of course, is billboards. We have seen the increased privatisation of public space when it comes to visual amenity. It seems that it is legitimate to impose words and images on people if one is trying to sell something but if it is a non-commercial form of expression it illegitimate. Billboards are the most prevalent form of visual pollution. Public communication for which there may otherwise be no forum or space is not legally sanctioned if it is graffiti art. I was part of a group called Billboards Utilising Graffitists Against Unhealthy Promotions [BUGA UP], which operated from about 1979 onwards. The group did—and I admit I did—all those things that this House would condemn at this point. We would graffiti, or re-face, billboards, one might say—

The Hon. Amanda Fazio: Change them.

The Hon. John Ajaka: Outrageous!

Mr IAN COHEN: —tobacco billboards and alcohol billboards. It was outrageous. This was a movement far ahead of its time and an example that has been repeated all over the world. A fellow called Bill Snow, who was driving with an Aboriginal friend of his who was dying from lung cancer, started the campaign and he told me this story. His Aboriginal friend said something to the effect of "Look at that. Look at what it is doing to me. I am just about finished." Bill said, "What do you think we should do?" His Aboriginal friend replied, "I reckon we should get out and bugger it up". They got out with a spray can and that is what they did. Back in those days you did not have to climb a building because tobacco billboards were at street level. Billboards proliferated all over the place. I ask Reverend the Hon. Fred Nile if he would like to comment either publicly or privately. Does he think it was a crime against society to have a go at a multinational tobacco industry that was destroying the lives of millions of people throughout the world? That was my aim.

The Hon. John Ajaka: You are saying that defacing someone's private property gives them some right—

Mr IAN COHEN: I am saying that this particular movement, in attacking the tobacco industry, was doing a public service that politicians, political parties and the leadership in society were abjectly failing to do—their mission to protect people, particularly young people who were very much moved by tobacco advertising.

We only have to look at the way they targeted young people in our society, and still do, to know that. Yet at the time the graffitists were the criminals. I say categorically—and I challenge members to deny it in the House—that the tobacco advertisers were and are the criminals in our society. The proliferation of billboard advertising by the tobacco industry is a crime, particularly against our young. We only have to look at the figures relating to tobacco use. I pay credit to Dr Arthur Chesterfield-Evans who spent many years in this House campaigning against the tobacco industry. He was a member of BUGA UP.

Reverend the Hon. Fred Nile: That is right. I introduced a bill to stop the advertising.

Mr IAN COHEN: I acknowledge Reverend the Hon. Fred Nile's interjection. The worthwhile activities of BUGA UP came about as a result of public action. The BUGA UP campaign involved young people, people in their seventies and people from a spectrum of professions and backgrounds. I would go out on my pushbike with spray cans and water bottles with about half a dozen people. They were doctors and medical students who fervently believed in the cause. Through some good artwork we refaced tobacco billboards into funny, cheeky, political messages. It was our response to the so-called right of tobacco industry advertisers to push hard drugs by conning people with sophisticated advertising techniques. It was well worth being involved in that graffiti campaign. Public opinion focused attention on the tobacco and alcohol promotions and other socially and visually assaulting promotions. We should acknowledge the impact of that campaign on the values of society, and we should recognise the aspirations of our young and channel those aspirations rather than try to control them in an inappropriate manner.

Although I do not have any expectations, I ask the Government to recognise the important historical role played by those who are seen as rebelling against society. The Government should take a slightly broader perspective than the one taken in the legislation before the House. As I have said, the removal of the tools of art, in this case spray paint cans, will not stop this type of expression. The young people will find another tool to use. As I said, one of the foremost French street artists uses a paintbrush. This activity will continue. I agree that in some instances graffiti is a problem. Technology has progressed so that councils and authorities can clean off graffiti and deal with what is judged to be inappropriate graffiti. But there is a need in our society to acknowledge that graffiti is art—often art of the dispossessed, the young and rebellious, but nevertheless art. I place that perspective on the record, but I do not expect any support from the House. I want members to recognise that we must have a breadth of understanding if we are to govern in this society with a degree of wisdom.

The Hon. AMANDA FAZIO [5.33 p.m.]: I support the Summary Offences Amendment (Spray Paint Cans) Bill. In doing so, I indicate that we should not be clouded by the issue of emerging art forms and the fact that this legislation is designed to allow police to confiscate spray paint cans from people under the age of 18 years. Currently it is illegal to sell a spray paint can to a person under 18 and illegal for anyone to use a spray paint can to illegally put graffiti on people's property. I do not have a problem with this legislation because it simply stops young people from engaging in an illegal activity.

I will not argue the merits of street art because there are some very good practitioners of spray paint can art and stencil art. Homeowners, building owners and councils have provided walls for people to practise these art forms. But we should not cloud the two issues. If we want to engage young people meaningfully and distract them from tagging walls using textas or spray paint cans there are avenues to do so. Art programs allow young people to channel their artistic endeavours in legal ways. This legislation is not anti-street art. This legislation allows police to take spray paint cans off young people who should not have them in the first place. I believe the Greens have failed to recognise that fact in this debate.

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Justice) [5.35 p.m.], in reply: I thank honourable members for their contributions to this debate. Speakers have referred to a number of issues, which I will attempt to address in my response. The legislation before the House is part of the Government's commitment to tackling youth crime, as announced before the March 2007 election. We are delivering on those commitments. This measure builds upon a number of initiatives that the Government has already taken to stamp out illegal graffiti. In 2006 we announced a comprehensive strategy to drive down the incidence of graffiti, including establishing an anti-graffiti action team, using community service orders to make offenders repair the damage caused by graffiti vandalism, identifying graffiti hotspots, stepping up enforcement surveillance particularly through closed circuit television [CCTV], assisting councils and government utilities with the development of graffiti management plans, targeting high graffiti environments and helping local councils, community groups and volunteers to remove graffiti.

A number of legislative initiatives were introduced, particularly criminal offences including sanctions of imprisonment. Other sentencing options were made available to the courts. I mentioned community service orders directing offenders to perform community service work. Those community service orders have seen 60,000 hours of graffiti removal work completed by young offenders. A number of initiatives have been undertaken in this area. References made to the Government's actions, particularly by Ms Lee Rhiannon, do not properly reflect the overall strategies that the Government has taken. As I said, they include legislative means and criminal sanctions and other sentencing options and crime prevention initiatives.

The Hon. John Ajaka, who led for the Opposition, asked why the legislation specifically dealt with people under the age of 18 years. The Government decided to target this confiscation power at people under the age of 18 because the available data suggest this is the group most likely to commit graffiti offences. In 2006, of the 2,684 people of interest recorded in reported graffiti incidents known to police by age and gender, 71.9 per cent or 1,930, were under the age of 18. Also, it is considerably less likely that a person under the age of 18 will be in possession of a spray paint can for a legitimate purpose. Indeed, it is illegal to sell a spray paint can to a person under the age of 18. For that reason it is legitimate to be able to ensure that these particular provisions are targeted towards that age group. Moreover, a person who is under the age of 18 is less likely to have a reasonable excuse for being in possession of a spray paint can because they are unable to purchase one and, in most cases, do not have professional obligations that would require them to be in possession of a spray paint can.

I make specific reference to comments made by Ms Lee Rhiannon. I interjected during her speech because it seemed to me that she did not properly consider her remarks. The law includes a number of offences that deal with illegal graffiti. This legislation does not create an offence. The legislation creates a new power for the police. If anything, the legislation has the potential to keep young people out of the criminal justice system because it denies them the means by which to commit a criminal offence; for example, maliciously damaging or defacing property. Removing a paint can from a young person may keep that person out of the court system. Ms Rhiannon has attempted to portray this legislation as another offence provision. That is wrong. We have a range of offence provisions, and this is about preventing young people from engaging in offending behaviour. I make it clear at the outset that this legislation will not make it an offence for a person under the age of 18 to be in possession of a spray paint can.

Ms Rhiannon also referred to the difficulties she foresaw for young people in being able to resist this legislation and being able to have a spray paint can returned to them. The bill provides for two possible avenues for return. The first is by going to the police station to apply for its return, provided the young person can produce evidence, for example, that he or she is over the age of 18 or can produce evidence of lawful possession of the can, such as a letter from an employer. The second avenue is to apply to the court for the return of the spray paint can. A person can also make an application to the Ombudsman, in the same way as making a complaint regarding other police conduct, in the event that the person believes action has been taken that justifies a complaint of that nature. The regulations will provide that any spray paint cans that are empty or are of negligible value can be disposed of immediately. It is highly unlikely there will be claims for the return of virtually worthless spray paint cans.

Mr Cohen made a number of references to campaigns in which he was involved and, more broadly, to the question of legal as opposed to illegal graffiti. The bill allows for a distinction to be made between legal and illegal graffiti. The new police power is drafted in such a way as to give the ultimate discretion to the police officer on the beat. For example, a person may have an explanation as to why he or she is in possession of a spray paint can: it may be that he or she is going to a legal graffiti site. The police officer can assess the explanation and all the circumstances and can, if satisfied, accept the explanation. This is a balanced initiative; it does not seek to prevent illegal graffiti. It is targeted at those instances that are more likely to give rise to concerns that a spray paint can will be used for illicit purposes.

I also make it quite clear that not all graffiti involves the use of spray paint cans; graffiti can include tagging carried out with textas or markers or the scratching of glass windows. Whilst it is difficult to assess the exact amount of graffiti that involves the use of spray paint cans, research suggests that spray paint makes up a significant share of graffiti vandalism. For example, in 2006 the Crime Prevention Division of the Attorney General's Department undertook a survey in partnership with the New South Wales Anti-Graffiti Action Team. Seven State Government agencies and 116 local councils participated in the survey. One of the survey questions was on the materials used in graffiti vandalism, and spray paint and markers were reported as the materials most commonly used to commit graffiti vandalism.

I believe those comments adequately respond to the concerns raised by honourable members. I thank the Opposition and the Christian Democratic Party for their support of the legislation. 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.

Leave granted to proceed to the third reading of the bill forthwith.

Third Reading

Motion 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.

LAW ENFORCEMENT (POWERS AND RESPONSIBILITIES) AMENDMENT BILL 2007

Second Reading

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Justice) [5.45 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.

The Government is pleased to introduce the Law Enforcement (Powers and Responsibilities) Amendment Bill 2007, which is part of the New South Wales Government's commitment to provide more powers to help police crack down on criminals, especially with regard to terrorism offences. The New South Wales Government is concerned to ensure that we are vigilant about the threat to the safety of our citizens. Laws are under constant review so that our legal framework will provide police with the powers they need to keep New South Wales safe. The bill makes a number of amendments to police powers legislation designed to improve the efficiency of policing and to eliminate red tape experienced by police officers. These goals are in keeping with the goals of the New South Wales State Plan, namely, Priority R1: reduced rates of crime, particularly violent crime; and Priority P3: cutting red tape. I will now outline the details of the bill.

Schedule 1 to the bill details the amendments to the Law Enforcement (Powers and Responsibilities) Act 2002. Item [2] replicates an existing search power for searches in public places in relation to searches conducted upon arrest. The power enables police to direct a person to open their mouth or shake their hair to search for concealed items such as prohibited drugs. Item [3] removes the requirement to include the name of an authorised officer on the notice to an occupier of premises entered pursuant to a warrant, in the interests of officer safety. The name of the authorised officer issuing the warrant is contained on the application, which is open for inspection by the occupier at the registry. The additional requirement for the name to be recorded on the occupier's notice is unnecessary to meet requirements of open justice and accountability.

Items [4] and [5] make important amendments to allow for crime scene warrants in connection with terrorism offences to be extended for a period of up to 30 days. Before the power can be exercised the authorised officer must be satisfied that there are reasonable grounds for extending the warrant beyond the current maximum period of six days. Overseas experience has shown that the effective investigation of terrorism offences necessarily requires the examination of particularly complex crime scenes, with investigations more often than not taking weeks rather than days. The amendment will reduce demands upon police time by alleviating the need to make fresh applications for warrants in such cases. Item [10] allows a scene of crime officer—who is a member of the New South Wales Police Force responsible for examining or maintaining crime scenes, and not necessarily a police officer—to establish a crime scene in relation to a vehicle in a public place where it has been reported as stolen.

The scene of crime officer will be able to exercise examination powers in relation to that crime scene if reasonably necessary to preserve, or search for and gather, evidence of the theft of the vehicle. The amendment will not change the fact that scene of crime officers will not be authorised to use coercive crime scene powers, which will be reserved for sworn police officers. Under these new powers it will no longer be necessary in these circumstances for a sworn police officer to establish the crime scene or to authorise the scene of crime officer to exercise the investigatory powers. This will free police officers to devote more time to policing rather than supervising forensic testing.

Item [1] inserts a definition of scene of crime officer into the Law Enforcement (Powers and Responsibilities) Act 2002 and Item [9] makes amendments that are consequential to the inclusion of that definition. Items [7] and [8] ensure that police officers are entitled to exercise crime scene powers at a crime scene established by a scene of crime officer under the new provisions. Item

[6] inserts a provision into the Act to prevent a police officer establishing a crime scene more than once on the same premises in any 24-hour period, so as to facilitate its application to crime scenes established by scene of crime officers.

Item [12] extends the existing power enabling police to deploy road spikes in circumstances where it is necessary to prevent the use of a vehicle by a person for the purpose of escaping lawful custody or avoiding arrest. Currently road spikes may only be deployed when a police pursuit has already commenced. The exercise of the new power will be limited to high-risk operations involving the Tactical Operations Unit of the New South Wales Police Force, as opposed to being available for general law enforcement. As with the existing power, the decision to deploy road spikes in this way will need to be authorised by the Commissioner or appropriate delegate on a case-by-case basis, and standard operating procedures will be developed before the new power comes into effect. In summary, the bill is another example of the Government's vigilance in ensuring that adequate laws are in place to help keep the community safe. I commend the bill to the House.

The Hon. JOHN AJAKA [5.46 p.m.]: The Law Enforcement (Powers and Responsibilities) Amendment Bill 2007 seeks to amend the Law Enforcement (Powers and Responsibilities) Amendment Act 2002 with a view to increasing police powers in the crackdown on criminals, especially with regard to terrorism offences. It is designed to improve the efficiency of policing by eliminating red tape that hinders the execution of police officers' duties. The Opposition does not oppose this bill. In relation to schedule 1 to the bill it should be noted that existing powers for searches in public places are covered by section 23, which provides:

(1) A police officer who arrests a person for an offence or under warrant may search the person if the officer suspects on reasonable grounds that it is prudent to do so in order to ascertain whether the person is carrying anything:

(a) that would present a danger to a person, or

(b) that could be used to assist a person to escape from lawful custody, or

(c) that is a thing with respect to which an offence has been committed, or

(d) that is a thing that will provide evidence of the commission of an offence, or

(e) that was used, or is intended to be used, in or in connection with the commission of an offence.

The bill seeks to replicate existing search powers for searches in public places in relation to searches conducted upon arrest. The power enables police to direct a person to open his or her mouth and to shake his or her hair to search for concealed items such as prohibited drugs. It should be noted that officers are not authorised to forcibly open a person's mouth or forcibly shake a person's head. However, if somebody refuses without reasonable cause to comply that person commits an offence.

The Opposition is committed to providing police with the means necessary to effectively carry out their duties in the investigation of crime and, as such, does not oppose this bill. The bill also seeks to remove the requirement to include the name of an authorised officer on the notice to an occupier of premises entered pursuant to a warrant. This is a controversial issue as there have been many complaints about the way in which warrants have been issued. Whilst the Government argues that the removal of the requirement to name authorised officers on warrants will help to ensure the safety of those authorised officers—and in this case it should be noted that on occasions the authorised officers may not, in fact, be police officers—the Opposition notes the following.

First, the effectiveness of this provision in safeguarding the identity of an authorised officer who has issued a warrant is questionable given that the occupier of the premises can still go to the registry and request to inspect the application for the warrant, which details the name of the authorised officer. Secondly, there is the potential for this provision to initially shield officers who have behaved unethically or who have issued a warrant on questionable grounds. Accordingly, appropriate safety checks should be in place to ensure that this does not occur.

The bill further specifies amendments that allow for crime scene warrants in connection with terrorism offences to be extended for a period of up to 30 days. Before the power can be exercised the authorised officer must be satisfied that there are reasonable grounds for extending a warrant beyond the current maximum period of six days. Overseas incidents have shown that the effective investigation of terrorism offences requires the examination of predominantly complex crime scenes involving explosions and suicide bombers. The investigations often take weeks rather than days. This is the justification for the extension, particularly in terrorism offences.

The bill also provides for a scene of crime officer—who is a member of the New South Wales Police Force, though not necessarily a police officer—to establish a crime scene in relation to a vehicle in a public place that has been reported as stolen. The scene of crime officer will be able to exercise examination powers at

that crime scene if reasonably necessary to preserve or collect evidence. This provision will enable police officers to devote more time to their investigatory duties because they will no longer be required to establish the crime scene or authorise the use of investigatory powers by the scene of crime officer.

In addition, the bill extends existing police powers to enable police officers to deploy road spikes in circumstances where it is necessary to prevent the use of a vehicle by a person for the purpose of escaping lawful custody or avoiding arrest. Currently road spikes may be deployed only when a police pursuit has already commenced. The exercise of this power will be limited to operations involving the Tactical Operations Unit of the NSW Police Force on the authorisation of the commissioner or appropriate delegate.

The various amendments appear to make established and accepted powers more efficient in evidence gathering. However, it is imperative that the authorised officers do not abuse these powers in any way. The Opposition notes, in particular, the proposed amendments to police search powers in relation to demanding that a person open their mouth and shake their hair so that police can search for concealed items. By its very nature that is highly intrusive. Therefore, this extended power should be exercised when deemed not only reasonable but also necessary in the interests of justice and safety.

As I have already stated, the proposed removal of the requirement to give notice to occupiers of premises entered pursuant to a warrant appears neither to completely protect the identity of authorised officers issuing warrants nor to ensure easy access to avenues of review and redress for occupants who wish to challenge the validity of the grounds upon which a warrant was issued. The Opposition stresses the importance of the implementation of appropriate and transparent review mechanisms in overseeing the use of the new powers to extend crime scene warrants and also to deploy road spikes. The rights of individuals—in particular, the sanctity of the person—must be balanced against community interests, notably the thorough and efficient investigation of crime. For this reason it is imperative that we impose appropriate checks and balances on this extended power. As previously stated, the Opposition does not oppose the bill.

Reverend the Hon. FRED NILE [5.52 p.m.]: The Christian Democratic Party supports the Law Enforcement (Powers and Responsibilities) Amendment Bill 2007. The bill will amend the Law Enforcement (Powers and Responsibilities) Act 2002 to make further provision in respect of the powers of police officers and scene of crime officers and warrants. These may appear to be minor amendments but they are important to the NSW Police Force in performing its role in this State under new Police Commissioner Andrew Scipione. I congratulate Mr Scipione on his appointment as commissioner: he is an excellent choice. This legislation will assist him and his officers in performing their duties on behalf of the people of New South Wales.

The legislation makes it clear that the power of the police to search a person on arrest includes the power to require a person to open their mouth and to shake or move their hair. It will also allow the police to deploy road spikes in limited circumstances. Those circumstances will be clearly stated in the police instructions; that is, road spikes will be used by a tactical operations unit and not by general police officers. The legislation also removes the requirement to include the name of an authorised officer on the notice to an occupier of premises entered pursuant to a warrant. However, the name of that officer is available on application; it is not secret. The legislation also increases the maximum duration of a crime scene warrant in terrorism cases to 30 days.

We know that terrorism cases are extremely complex. Members were briefed today about a jury that could serve for 8 to 12 months in a case involving people charged with terrorism offences in Sydney. That demonstrates that previous timeframes need to be reviewed. The legislation also allows scene of crime officers to exercise certain crime scene powers without a police officer being present in relation to vehicles in public places that are reported stolen. The Christian Democrats support this bill.

Ms SYLVIA HALE [5.55 p.m.]: Like so many amendment bills dealing with miscellaneous issues, this bill is acceptable in some parts but very nasty in others. The Wood royal commission was the motivating force behind the original Act. There was a perceived need to ensure that police officers exercise their powers responsibly. That Act also addressed the need to consolidate legislation to codify police powers that were implied in common law and to respond to the drug problems that were seen to exist in Cabramatta and on which then Premier Bob Carr—using one of the Government's favourite clichés—said he would crack down.

The then Attorney General, Bob Debus, noted in his second reading speech on the Law Enforcement (Powers and Responsibilities) Bill 2002 that the police had been given powers "to fulfil their role in law enforcement effectively". However, in return they were required to "exercise them responsibly". He claimed that

the bill balanced those two ideals admirably. The Greens were not so sure at the time and moved a series of amendments. However, we are not dealing with those issues today.

We have entered a different era—an era of overpolicing—if the Asia-Pacific Economic Cooperation forum and subsequent events are anything to go by. I will provide a couple of examples of what I believe is excessive overpolicing by the NSW Police Force. On Saturday 15 September—exactly one week after the major Asia-Pacific Economic Cooperation forum rally—I attended a small gathering of about 25 people in Martin Place. The meeting was prompted by the publication on the previous day of the Patreaus report, which assessed the role of the United States forces in Iraq. Over about one hour more than 40 police officers surrounded participants—about 23 were in attendance at any one time—and the Riot Squad circled the block. They were clearly drunk on the powers handed to them in the Asia-Pacific Economic Cooperation legislation, which had lapsed three days earlier. The police intended to intimidate rally participants and to imply by the shear strength of their physical presence that any expression of dissent about the actions of either the United States Government or the Australian Government in Iraq was unacceptable and would not be tolerated.

I was equally disturbed last Thursday when attending a rally in Hyde Park to protest about the training of Burmese police forces by the Australian Federal Police. As everyone knows, the Burmese military has had no compunction in ruthlessly suppressing any opponents of its regime. On this occasion there were two police cars, one police motorcycle and at least nine police officers in attendance. Why, when the right to protest is a right of every citizen of this country and is not subject to police approval, was such a heavy-handed police presence necessary?

The amendments we are considering cover a number of different areas, from searching for drugs to the deployment of road spikes. However, in keeping with our new politics of fear and intimidation, the amendments also extend police powers to terrorism-related issues. I will first address the provisions that the Greens do not oppose. We support the search power provisions that empower police to request a person to open their mouth and shake their hair when, to take the most common example, a police officer suspects that person may be in possession of drugs for sale. If the person refuses, they can be fined five penalty units, but cannot be forced to submit to that search. Nor do The Greens have any issue with non-police forensic officers establishing a crime scene in the case of a suspected stolen vehicle. The provisions allow for a non-police scene-of-crime officer to establish a crime scene for the purposes of checking for fingerprints and gathering evidence. This is something these officers can do now after a police officer has established a crime scene.

Another amendment omits part 11, division 3, of the Act. It omits the entire division, which deals with use of medical imaging to search for internally concealed drugs. The provision was incorporated in the Act as a result of drug incidents in Cabramatta. The Ombudsman has since reviewed the Act, identified a number of difficulties and recommended that the internally concealed drugs provision be repealed. Moreover, medical scanning equipment has been used very infrequently, if at all, under the provisions of the Act. In general, it was felt the division was unworkable, hence this repeal—a repeal the Greens support.

The amendments dealing with tyre deflation devices allow police to use such devices to prevent the use of a vehicle by a person for the purpose of escaping from lawful custody or avoiding arrest. If the police suspect someone is trying to escape in a vehicle, they are able to pre-empt that escape by, for example, placing road spikes at the entrance to a car park. However, the Greens do not support the amendment that would remove the name of the authorising officer—which might be a magistrate or registrar—from a notice of warrant that is supplied to the occupier of premises. Nor do we support the time extension to warrants for terrorism crime scenes. I will move relevant amendments during the Committee stage.

I turn now to the provisions that the Greens do not support. I have yet to hear a valid reason that the name of an authorising officer should not be included on any notice of warrant to an occupier. We asked at the crossbench briefing what was the purpose of removing the name from the warrant and we were told that the name could be obtained from the Local Court. So it cannot be argued that not providing the name of the authorising officer will make that person any safer because, in any event, their name can be obtained. However, it will make the process less transparent. Most warrants are issued by registrars or by magistrates. The very nature of their jobs may render them liable to hostility and, in extreme cases, to some form of retaliation. Removing an authorising magistrate's name from a warrant will do nothing to prevent that from occurring.

A warrant to search an occupant's premises may have major physical and financial repercussions for the occupant. Doors, walls and ceilings may be removed or damaged. Items may be seized. Premises may be rendered uninhabitable. Ultimately, charges may not be laid, let alone proved. It is essential that the processes

surrounding the issuing of a warrant be not only above suspicion, but also seen to be above suspicion, before any warrant is issued. Yet it is this very safeguard that this amendment will undermine.

The bill also proposes to extend the length of a crime-scene warrant where the matter involves a terrorism offence. The length of the warrant would be extended from six days to up to 720 hours or 30 days. The current limit for investigations at crime scenes is 144 hours or six days. The proposed warrant in terrorism matters will last five times longer than that relating to any other matter. The Greens accept that some investigations—for example, in the aftermath of the Bali bomb blast—may take longer than others and may involve complex forensics and a greater physical area than other crime scenes. Then again, a plane crash investigation may also take a long time, as may a complex corporate fraud case. There are no circumstances unique to terrorism matters that may not also apply to other criminal investigations, but the Government is proposing that the time extension should apply only to terrorism-related matters.

The Act already allows a police officer to establish a crime scene if police suspect a serious indictable offence—a crime where the maximum penalty is five years or more—or a traffic accident has occurred. The police already have extensive powers over the location. Once a crime scene warrant is executed it can, in theory, last indefinitely if the warrant is renewed repeatedly. Significantly, once a warrant is executed, the police must report back to the authorising officer. They must also do this should they require an extension. Given how intrusive a warrant can be, and the inroads it may make into an individual's civil liberties, this is the least that should be asked of those seeking a warrant or its renewal. If the police have a legitimate case, they can take all the time they need to do what they need to do. But they must be able to justify their actions. Any proposal to extend the warrant to 30 days is dangerous and should be opposed. The unacceptable aspects of this bill outweigh the acceptable elements. As a consequence, the Greens will be opposing the bill. Should we be unsuccessful, as I suspect we will be, we will seek to amend the bill in Committee.

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Justice) [6.06 p.m.], in reply: I thank honourable members for their contributions in this debate. Ms Sylvia Hale made reference to her proposed amendments. I will deal with those issues during the Committee stage. I commend the bill to the House.

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

The House divided.

Ayes, 28

Mr Ajaka	Ms Griffin	Ms Sharpe
Mr Brown	Mr Hatzistergos	Mr Tsang
Mr Catanzariti	Mr Kelly	Mr Veitch
Mr Clarke	Mr Khan	Ms Voltz
Mr Colless	Mr Lynn	Mr West
Mr Costa	Mr Mason-Cox	Ms Westwood
Ms Fazio	Reverend Nile	
Ms Ficarra	Ms Parker	*Tellers,*
Miss Gardiner	Mrs Pavey	Mr Donnelly
Mr Gay	Ms Robertson	Mr Harwin

Noes, 4

Mr Cohen
Ms Rhiannon
Tellers,
Ms Hale
Dr Kaye

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Consideration in Committee set down as an order of the day for a later hour.

ADJOURNMENT

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Justice) [6.15 p.m.]: I move:

That this House do now adjourn.

EQUINE INFLUENZA

The Hon. AMANDA FAZIO [6.15 p.m.]: Today is Melbourne Cup Day. Instead of this day being one of the busiest days for horseracing in New South Wales, most of our tracks were dead quiet—not due to a lack of interest from trainers, jockeys, owners, punters and racegoers: dead because of the failure of the Howard-Vaile Government to properly manage the quarantine regime for Australia. Today's Melbourne Cup is the first in memory without New South Wales and Queensland horses taking part. Since 23 August 2007 New South Wales thoroughbred racing has experienced the most horrendous period since its inception in 1810. Other than wars and the Depression, the only other time racing stopped was in 1814, when Governor Macquarie put a halt to the very popular thoroughbred meetings as workers were unfit to work for many days afterwards due to excessive celebrations. Not that we would know about that in this sober Chamber.

As we all know now, in mid August a shuttle stallion sire, Encosta de Lago, being kept in quarantine at the Eastern Creek Australian Quarantine Inspection Service [AQIS] facility came down with equine influenza. Three days later, Danehill Dancer also came down with horse flu, and from that initial infection this devastating disease rapidly spread throughout most parts of eastern Australia, with horses in New South Wales being the most severely affected. Conflict exists between the Australian Racing Board and the Federal Government over Australia's quarantine standards and their role in the outbreak of equine influenza. The board accused the former Minister for Agriculture, Warren Truss, of twice fobbing off its concerns that relaxed quarantine standards could lead to an outbreak of the disease, and even issued a written guarantee that "it could not happen". Barely two years before equine influenza paralysed the horse industry and hobbled this year's Melbourne Cup, the Federal Government gave a written assurance that quarantine protocols were so stringent that an outbreak of the disease "could not occur".

In May 2005 the then Minister for Agriculture, Warren Truss, wrote to the Australian Racing Board to dismiss concerns about a growing risk of horse flu reaching Australia because of moves to replace staff in the Australian Quarantine Inspection Service with private personnel. Mr Truss's letter is a typical example of the Federal Government's insisting that all was well. It rejected outright the horse industry's claim in 2005 that Australia risked an equine flu outbreak like the one that swept South Africa in 2003-04 because changes to quarantine service policy meant private vets were taking over the jobs once done by the service's veterinary officers. He claimed that the circumstance that led to the outbreak of equine influenza in the Republic of South Africa in 2003 could not occur under the Australian Quarantine Inspection Service post-arrival protocol. He assured the racing board that the recommendations of the South African inquiry into their equine influenza outbreak, known as the King report, were all "standard procedures in Australia's post-arrival protocol".

But the chief executive of the Australian Racing Board, Andrew Harding, criticised the Government for failing to take the South African experience seriously. How right he was. The first day of an inquiry established by the Federal Government into the outbreak of horse flu, which is headed by former High Court judge Ian Callinan, revealed major gaps in Australia's quarantine procedures. The inquiry was told of a number of problems, both at Sydney Airport and at the Eastern Creek Quarantine Station in Western Sydney. The inquiry was told that horses arriving at Sydney Airport have been greeted by dozens of people who were not wearing protective clothing. The counsel assisting the inquiry has told about quarantine problems at Eastern Creek and said that prior to the horse flu outbreak there were no Australian Quarantine Inspection Service officers on duty after hours at the quarantine station. He also said private vets were allowed to enter and leave the facility without being decontaminated and without wearing protective clothing around the horses.

The Federal inquiry into the entry of the disease into Australia will resume later this week. The racing industry may claim as much as $500 million in compensation from taxpayers if the Federal Government is found to have been negligent. They are among many organisations that have sustained massive losses including TABCorp, which estimates its loss at $500 million, and indications are that class actions will be initiated by horse industry workers. But it is not only the racing industry that has suffered today. The f1u-ravaged New South Wales racing industry has dented sales of frocks, suits and hats, dragging down the State's clothing sales figures for September. The New South Wales clothing industry had been battered by horse flu during what should be a "boom time", Australian National Retailers Association chief executive Margy Osmond said.

We should never forget the other players in the horse industry—breeders, handlers, transporters and recreational riders. Our thoughts should be with our equestrian competitors who are trying to prepare for next year's Beijing Olympics. But if we look at the big picture, this is not only about horse flu. The Nationals have sat inert, like the statutes on Easter Island, while their Liberal counterparts—definitely the dominant partners in the relationship—have steadily downgraded and underfunded the Australian Quarantine Inspection Service, putting many rural agricultural industries at risk. The list is very long, and it includes the importation of uncooked chicken meat, raw salmon, apples, honey, avocadoes, uncooked imported prawns and bananas. When it comes to supporting rural communities and economies, The Nationals make plenty of noise but do nothing. They no longer support the people they claim to have as their core constituency. They represent nothing in the Federal Coalition except a few numbers, no policy, no influence and no action.

This is not the first time that I have spoken about my concerns with the actions of Biosecurity Australia and the downgrading of the Australian Quarantine Inspection Service. I currently have a motion on the *Notice Paper* about the concerns of Australian avocado growers about imports from New Zealand. I received a letter from the NSW Farmers Association thanking me for raising this important issue. Federal Labor has committed that it would implement a high level review of the import risk analysis process and biosecurity generally should it win office later in the year. I certainly hope, for the sake of rural communities, that it does. [*Time expired*.]

MARONITE SISTERS OF THE HOLY FAMILY

The Hon. JOHN AJAKA [6.20 p.m.]: I wish to speak about the Maronite Sisters of the Holy Family and their altruistic contribution to our community; in particular, I refer to the official opening of their new aged care facility at Dulwich Hill. On Saturday 27 October I had the privilege and pleasure of attending the official opening ceremony of the Maronite Sisters Village (2) Dulwich Hill by the Hon. Tony Abbott, Federal Minister for Health and Ageing, with the Blessing of the Village performed by His Excellency Ad Abikaram, Maronite Bishop of Australia, in the presence of Mother Gabrielle Bou Moussa, Superior General of the Congregation of the Maronite Sisters of the Holy Family.

Also present at the ceremony as guest speakers were His Excellency Mr Robert Naoum, Consul General of Lebanon; the Hon. Mrs Barbara Perry, MP, Minister for Juvenile Justice, representing the Premier of New South Wales, the Hon. Morris Iemma; the Hon. Barry O'Farrell, MP, Leader of the State Opposition; Sister Elham Geagea, Superior of the Maronite Sisters at Dulwich Hill and chief executive officer and director of nursing for the aged care facilities; Mr Anwar Harb, as master of ceremonies; and Professor Noel Dan, on behalf of the Alam family. Professor Dan is the nephew of the late Hon. Alexander Alam, who was a member of the Legislative Council for 43 years from 1925 to 1963, and in a casual capacity from November 1963 to April 1973.

On this blessed occasion, the honoured guests were given a tour of the new aged care facilities, which house 47 beds—a welcome and much-needed addition to the 50 beds in the sisters' Marrickville facilities. The new village took 14 months to complete—a manifestation of the enduring spirit and mission of the congregation of the Maronite Sisters to care for those upon whom life has laid a heavy burden: the disadvantaged, homeless, elderly and sick. As Mr Anwar Harb stated on the day:

> The congregation of the Maronite Sisters of the Holy Family is one of the main success stories in the Lebanese Diaspora to Australia.
>
> A seed was planted in Australia in 1968 when the first nuns of the holy family arrived to Redfern and since then this seed has grown from strength to strength to become the story of achievement in serving God, children, elderly and the sick. In turn, helping to promote the true Lebanon, the Lebanon of alphabet, the Lebanon of art, faith, beauty, and also in promoting Australia, this great nation of ours.

The congregation of the Maronite Sisters was founded by the Patriarch Elias Hwayek on 15 August 1895, the Feast of the Assumption, in North Lebanon. The congregation, itself a testament to the progressive nature of the founder's vision being advanced into modem society, was the first female institution to be founded in the Maronite and Eastern Churches. The founder entrusted to the sisters the mission of educating the young and caring for the sick and elderly—a vision that has its roots in the Lord's words, "Whoever welcomes this child in my name, welcomes me": Luke 9:48.

The congregation has approximately 270 members, and its accomplishments in the realm of education and child care are varied and far-reaching. The patriarch's mission found expression in the sisters' many community projects and initiatives, including the establishment of 50 schools in Lebanon, providing for the education of approximately 33,000 students; in Australia, the establishment of Our Lady of Lebanon College in

Harris Park, Parramatta, in 1973, and St Maroun's College at Dulwich Hill, which educate both primary and secondary students; the establishment of the Holy Family childcare centre at Belmore in 1976 and a preschool on that site in 2001; and the establishment of a preschool at St Maroun's College, Dulwich Hill, in 1989.

The sisters also continue to expand their elderly care initiatives. In 1997 the first Maronite Sisters of the Holy Family Village Nursing Home was built on the same site as St Maroun's College, to care for the elderly of all denominations. It was a great honour for me to attend the official opening of the sisters' second elderly care facility at Dulwich Hill. The sisters are also active in local parishes: serving at weddings and funerals, assisting with administrative matters on parish committees, running spiritual retreats, and hosting the Maronite Catholic Radio program. They make an invaluable contribution to day-to-day community life, through sowing the seeds of benevolence and compassion amongst the young, the old and the disadvantaged.

The Maronite Church's rich heritage dates back to the early fifth century. The church emerged after the split between the Roman Catholic Church and the Eastern Orthodox Churches in 451 AD. The first Maronites were the disciples of Maroun, a monk and friend to St John Chrysostom. Upon Maroun's death in 410, his disciples built a monastery in his memory, forming the nucleus of the Maronite Church. Although the Maronites have upheld an unbroken ecclesiastical orthodoxy and unity with the Catholic Church since the twelfth century, and share the same doctrine with other Catholics, the Maronite liturgy and hierarchy have, to a large extent, developed independently of the Roman Catholic Church. The total number of Maronites today is approximately 1.5 million.

I commend the Maronite Sisters for their endeavours, which have touched my family deeply. I thank them for the hope and support they have given to their patients, students and the community at large. I know this first hand, as I witnessed the loving and caring way in which they looked after my late uncle Habib Ajaka while he was a resident at the first Maronite Sisters Village. He died earlier this year.

TAFE FUNDING

Dr JOHN KAYE [6.25 p.m.]: Despite the enormous benefits to Australian society, the TAFE system is under attack. Driven by an ideological fervour, the Howard Government has cut TAFE funding, attempted to impose the worst aspects of WorkChoices, and set up a semi-privatised system of Australian technical colleges to compete with the pre-trade training functions of TAFE. The New South Wales Government has not been much better: it has also cut TAFE funding and has this year increased fees well above the consumer price index.

The Greens believe it is time for all levels of government to take stock and recognise the enormous social and economic benefits TAFE delivers to our society. After all, TAFE is the engine room of our economy. It provides an innovative and skilled workforce, which is essential for us to survive economically, particularly given the challenges of global warming, increasing fuel prices, and an ageing population. The Allen Consulting Group has estimated that for every dollar we invest in TAFE today, we will reap a benefit of $6.40 over the next 20 years.

TAFE is also important in creating a much fairer society. It provides opportunities for working Australians to enter the economic, social, cultural and political life of Australia. It also provides second-chance education for those who have fallen out of the formal education system, and provides education for youth at risk. Only a well-funded, public system can provide these benefits. Private providers who are fixated on profits and cutting costs simply cannot deliver for society or for students.

The Federal Government has launched massive attacks on the TAFE system. It has cut TAFE funding. By 2005, compared with 1997, on a per-student basis funding had been cut by 25 per cent. In New South Wales alone, that means $131 million less each year going into the New South Wales TAFE system. The Federal Government engaged in funding blackmail to enforce Australian workplace agreements and the worst aspects of WorkChoices onto the TAFE system. Not content with threatening to push the TAFE system into WorkChoices, the Federal Government set up a semi-privatised system of Australian technical colleges and squandered $550 million on establishing 28 Australian technical colleges.

The Howard Government now promises to spend $2 billion on 100 new Australian technical colleges. It is an unnecessary duplication of the pre-trade function of TAFE, and it ignores the success of the vocational education and training program in schools, which has provided pre-trade training to high school students. This is a shameful waste of public funds on duplication. It is an inefficient and non-cost-effective way of spending vocational education and training funds. Indeed, the Howard Government is squandering public money to pursue an ideological vendetta against State-based TAFE systems.

The State Government is not innocent. Since 1997 the Carr-Iemma Government has cut TAFE per-student funding by 35 per cent. That means $496 million less funding by 2005, even taking into account inflation. Not content with that, this year TAFE fees have been increased by 9 per cent for the 2008 TAFE year. For some courses, it means an increase of up to 37 per cent. The meanest of all fee increases is a $50 fee for government benefit recipients. The Iemma Government now claims that it will refund the fee if students pass. However, it is still a barrier to participation for low-income students. It is still a mean-hearted, short-sighted, inefficient, revenue-raising exercise that ignores the impacts on students from low-income households.

The Greens argue that it is time for a new deal for TAFE. We argue for a $1 billion injection into TAFE each year, to provide growth funding so that the 40,000 Australians who are turned away from TAFE each year will no longer go without the benefits of vocational education and training, so we can invest in teachers to restore permanency and create a new system of professional development, so we can invest in capital works to improve TAFE facilities, and so we can abolish student fees. We are arguing for $1 billion now and for each of the next four years. If we take the Allen Consulting Group report figures, there would be a $28 billion boost to our economy and, more importantly, a massive investment in creating a fairer and more equitable society.

BANKSTOWN WOMEN'S HEALTH CENTRE

The Hon. HELEN WESTWOOD [6.30 p.m.]: Last Friday I attended the celebration of the thirtieth anniversary of the Bankstown Women's Health Centre. I shared the day with the member for Bankstown, Mr Tony Stewart, and many women from the local Bankstown community. The centre is a community-based holistic women's health service initiated by women for women. It is a registered charity and an incorporated association.

In early 1974 a very courageous and tireless group of women championed the health needs of the women of Bankstown to set up the centre. They applied to the New South Wales Department of Health for funding on seven separate occasions without success. Despite no funding, but with the support of the Liverpool Women's Health Centre and volunteers, the centre grew out of a group of women meeting and talking who were not willing to give up. It was a time of great change for women. The roles of women were being questioned and, indeed, women were challenging their roles themselves. It was also a time when feminism had begun to give women the language to explore themselves and their life choices. A series of "Speak Outs" was held, providing local women with the opportunity to publicly discuss their needs. They recognised that women's health encompassed not only the medical but also the physical, emotional and psychological wellbeing. Factors identified included poverty, social standing, employment opportunities, isolation, violence, language and cultural differences.

In 1977 the centre opened on a regular basis at the Condell Park Baby Health Centre for one day a week. In 1979, the International Year of the Child, a group of tenacious women began to lobby for a community childcare centre and after two years established the Caterpillar Cottage, a multi-cultural neighbourhood childcare centre. In 1983 the centre moved to its present location in Restwell Street with the aid of Bankstown City Council. Today the centre is community managed and employs a coordinator or centre manager. Two thirds of the centre's funding is received from the New South Wales Department of Health and the remaining funding is from the Federal Government's Public Health Outcomes Funding Agreement. The Department of Community Services also funds a child sexual assault service, which is based in the centre and which offers counselling and support to victims and family members. Other projects are directly funded from sources such as Bankstown City Council, which provides support, resources and project funding. The Dementia, Carers and Disabilities Unit of the NSW Department of Health has granted money for a two-day program for carers.

The Bankstown local area has a female population of more than 80,000. The centre provides a safe and supportive environment for these women. The services are provided at little or no cost and, importantly, are confidential. It is a service for women of all ages, nationalities and religions. A free childcare service is provided for women attending appointments. The centre is one of 22 such women's centres running throughout New South Wales. It is important to note the difference that these centres presented for women in the early days, when a very different type of health service was provided. Women were provided with information about simple things that we take for granted today, such as breast checks and Pap smears. The Bankstown Women's Health Centre focus is on women's health and related issues. The centre provides education, preventative health services and self-help. A range of counselling services is provided. The centre advocates on behalf of women in our community.

The Bankstown Women's Health Centre has played a key role in a number of planning initiatives. It has helped to set up refuges for women and children who are victims of domestic violence. The centre also has been instrumental in organising and running our "Reclaim the Night" marches in Bankstown. It has also been involved in the prevention of sexual assault working party. I know the workers at the Bankstown Women's Health Centre continue to have a commitment to providing quality health services for women in our community. I offer my thanks and congratulations to the centre and its workers on what they have achieved on behalf of women.

SPECIAL AIR SERVICE SERGEANT MATTHEW LOCKE AND SERGEANT MICHAEL LYDDIARD

CAMDEN ISLAMIC SCHOOL

The Hon. CHARLIE LYNN [6.35 p.m.]: Before I address an issue of prime concern to my community in Camden, I offer my condolences to the family of Special Air Service Sergeant Matthew Locke, who was killed in action in our war against terrorism in Afghanistan. I also express my best wishes for a speedy recovery to combat engineer Sergeant Michael Lyddiard who lost an arm and an eye, and suffered severe shrapnel wounds in a roadside bombing in Afghanistan. These two soldiers have served their country in the finest tradition of the army and their sacrifice should never be forgotten. Legacy will ensure that their families are looked after, as they are now part of that very special family. I served in the army for 21 years. During that time I served in three different countries, and a number of different States and suburbs. My eldest daughter went to 13 different schools in three different countries.

When I finished serving in the army I elected to settle down in Camden. My wife's family and my family came from the country, which is why we selected Camden with its great rural atmosphere and its historic township. Camden is also strategically located with access to Sydney, the Blue Mountains, the Southern Highlands, the Illawarra and the beaches of Wollongong. Camden is one of the great secrets of Sydney. The integrity of Camden is protected by flood plain and heritage land, particularly Belgenny Farm, and I like that. There is currently a proposal to build an Islamic school at Camden to cater for 1,200 students and 200 teachers. According to the Australian Bureau of Statistics there are around 330 people of the Islamic faith, or 100 families, who live in the Camden local government area. These 1,200 students and 200 teachers would have to commute to Camden daily.

The proposal to build an Islamic school has raised a number of concerns to the people living in the beautiful rural community of Camden. Last night, at very short notice, 2,000 people gathered at a rally at Belgenny Oval to express their concerns about the pressures this development would place on existing infrastructure. The first concern raised was that public transport is not an option because there is no railway station at Camden—the nearest railway station is 15 kilometres away at Campbelltown. The bus journey is just short of one hour. Students and teachers would have to travel to the school by road. A number of developments are underway in the area. I have expressed concern about the development at Oran Park and the capacity of Narellan Road, Camden Valley Way, Burrogarang Road, Cawdor Road and other roads to handle the traffic. The school will simply not fit. There are plenty of schools within the Camden area to absorb any students who wish to enjoy the surrounds of the area without building a school of this scale.

Camden protects its heritage jealously. One only need look back at the arguments with the McDonald's restaurant chain over the past 20 years. Camden does not see the McDonald's restaurant chain as an appropriate organisation for its rural atmosphere. The application of the chain to build a restaurant in the area has been rejected on a number of occasions; although I think its current application may be successful. Last night, at an orderly meeting, a vote was taken. Two people voted in support of the proposal for a new school and 1,998 voted against it. It was a pity that the local member, Geoff Corrigan, did not turn up to listen to community concerns about the lack of infrastructure for the new school. If he had, he would have heard that the community had some very serious concerns. I call on Geoff Corrigan to represent his constituents in Camden and to object to the new school until infrastructure appropriate to the development is provided.

LITHGOW COALMINING NON-COMPLIANCE INCIDENTS

Ms LEE RHIANNON [6.40 p.m.]: Last week I visited Lithgow and met with residents from Blackman's Flat, an area wedged between coalmines and Mount Piper power station. The council has decided to build a garbage dump nearby. Blackman's Flat is a small town with only 13 families, who are doing it tough. In the past year three new coalmines and four new coalmine extensions were granted without proper community

consultation. For decades the government of the day has established dirty industries in the area, and the residents have had to contend with the unpleasant living conditions. They face noise pollution from blasting, dust from Mount Piper fly ash dump and dust from open-cut coalmines. Their houses have many cracks from subsidence. House prices are going up around the State and the country, but in the past year the value of houses in Blackman's Flat has dropped $40,000.

Local residents have taken up the matter with authorities, but have not received a good response. Prior to the last State election the local member, Mr Gerard Martin, said at a public meeting that it would be a drop in the ocean to relocate the residents of Blackman's Flat. The residents now ask for relocation. Although Blackman's Flat has been their home for a long time, they do not believe that any remediation or changes can help their situation. Following the State election Mr Martin said that relocation was asking a lot. I call on Mr Martin to put on record his position in regard to his constituents. As an example of the tough conditions these people face, the Greens referred to a government website, which shows that the level of non-compliance by mining companies operating in the Western coalfields is the highest of all the coalfields in New South Wales. During 2000 to 2006 the 16 mines in the Western coalfields listed on the Environment Protection Authority website reported 981 incidents of Environment Protection Authority licence non-compliance. Of those reported incidents, 81 per cent relate to failure to conduct pollution monitoring, 18 per cent to water pollution and less than 1 per cent to air, dust and noise pollution.

The 1 per cent of incidents relating to air, dust and noise pollution should be viewed in the context of the 81 per cent relating to failure to conduct pollution monitoring. If pollution monitoring were carried out, then the level of non-compliance would be much higher. The worst offender was Springvale Coal Pty Limited in Lidsdale, which reported 103 incidents of Environment Protection Authority licence non-compliance. They reported 720 incidents of failure to carry out pollution monitoring and 79 incidents of water pollution. Prior to my visit to Lithgow, I asked the Minister for Mineral Resources a question about these non-compliance incidents. The Minister said that they could be minor problems and went on to say:

> I have not heard of any serious breaches of the environmental protection arrangements in the Lithgow area …

Where does the Minister get his advice? I challenge the Minister to visit Blackman's Flat and to see the dust pollution for himself. He does not need pollution monitoring, he just needs a pair of eyes and a willingness to meet with these people. Mr Bob Miller, the general manager of Western operations for Centennial Coal, has challenged the Environment Protection Authority figures. He said that the Greens have regurgitated statistics from a government website. These are serious breaches. Mr Miller may argue they are minor on-site issues, but the health of local people is in jeopardy. I call on Bob Miller to join me on an on-site investigation of Blackman's Flat and Cox's River to see the damage being done by mining operations and to make sure that people's health does not suffer.

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

Motion agreed to.

The House adjourned at 6.45 p.m. until Wednesday 7 November 2007 at 11.00 a.m.