LEGISLATIVE COUNCIL

Tuesday 27 November 2007

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The President (The Hon. Peter Thomas 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:

Road Transport (General) Amendment (Written-off Vehicles) Bill 2007
Summary Offences Amendment (Spray Paint Cans) Bill 2007
Tow Truck Industry Amendment Bill 2007
Bail Amendment Bill 2007
Courts Legislation Amendment Bill 2007
Criminal Legislation Amendment Bill 2007
Jury Amendment Bill 2007
Law Enforcement (Powers and Responsibilities) Amendment Bill 2007
Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2007
Road Transport (Safety and Traffic Management) Amendment (Novice Drivers) Bill 2007
Coal Acquisition Legislation Repeal Bill 2007
Murray-Darling Basin Amendment Bill 2007
Surveillance Devices Bill 2007
War Memorial Legislation Amendment (Increased Penalties) Bill 2007
Crimes Amendment (Consent-Sexual Assault Offences) Bill 2007

ADMINISTRATION OF THE GOVERNMENT

The PRESIDENT: I report the receipt of the following message from Her Excellency the Governor:

Office of the Governor
Sydney 2000

Marie Bashir
GOVERNOR

Professor Marie Bashir, Governor of New South Wales, has the honour to inform the Legislative Council that she reassumed the administration of the Government of the State on 16 November 2007.

16 November 2007

COMMUNITY JUSTICE CENTRES AMENDMENT BILL 2007

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

Motion by the Hon. John Della Bosca agreed to:

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

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

TABLING OF PAPERS

The Hon. Eric Roozendaal tabled the following papers:

(1) Annual Reports (Departments) Act 1985—Reports for the year ended 30 June 2007:

(a) Department of Ageing, Disability and Home Care

(b) Department of Lands

(2) Annual Reports (Statutory Bodies) Act 1984—Reports for the year ended 30 June 2007:

(a) Rental Bond Board

(b) Sydney Catchment Authority

(3) Guardianship Act 1987—Report of the Guardianship Tribunal for the year ended 30 June 2007.

Ordered to be printed on motion by the Hon. Eric Roozendaal.

AUDIT OFFICE

Report

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of the performance audit report of the Auditor-General entitled "Improving Efficiency of Irrigation Water Use on Farms—Department of Primary Industries", dated November 2007, received out of session and authorised to be printed on 21 November 2007.

LEGISLATION REVIEW COMMITTEE

Report

The Clerk announced the receipt, pursuant to the Legislation Review Act 1987, of the report entitled "Legislation Review Digest No. 7 of 2007", dated 23 November 2007, received out of session and authorised to be printed on 23 November 2007.

LOWER HUNTER REGIONAL STRATEGY

Production of Documents: Report of Independent Legal Arbiter

The Clerk announced the receipt, pursuant to standing orders, of the report of the independent legal arbiter Sir Laurence Street dated 26 November 2007 on the disputed claim of privilege on papers relating to the Lower Hunter Regional Strategy. The Clerk announced further that the report was available for inspection by members of the Legislative Council only.

PETITIONS

Genetically Modified Crops and Products

Petition requesting that New South Wales remain genetically modified crop free and investigate more stringent labelling on products already containing genetically modified strains, received from **Mr Ian Cohen.**

Climate Change

Petition requesting support for the proposed Climate Futures Bill and action to combat dangerous climate change, received from **Dr John Kaye.**

DISTINGUISHED VISITOR

The PRESIDENT: I draw the attention of members to the presence in the gallery of the Hon. Ian Gilfillan, a former member of the Legislative Council of South Australia.

BUSINESS OF THE HOUSE

Postponement of Business

Business of the House Notice of Motion No. 1 postponed on motion by Mr Ian Cohen.

DEATH OF BERNIE BANTON, AM

Ministerial Statement

The Hon. JOHN DELLA BOSCA (Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance) [2.46 p.m.]: All members would be aware and saddened by the death this morning of Bernie Banton. Bernie was diagnosed in August with the asbestos-related terminal cancer mesothelioma. My heartfelt sympathy, and that of all members, goes out to Bernie's family, his wife, Karen, his children and his many friends. Bernie came to be a symbol and the public face of the legal and political campaign to achieve compensation for the many sufferers of asbestos-related conditions. Bernie worked for the James Hardie company from 1968 to 1974 at a Sydney plant that produced asbestos pipes, sheeting and insulation, often working double shifts. Bernie spoke of being constantly covered in a fine white dust.

In 1999 Bernie was diagnosed with asbestosis, a debilitating lung condition. After receiving that diagnosis, he put his own health concerns aside to fight, and win, a legal and public battle with James Hardie to properly compensate future victims of asbestos disease. This followed the discovery that a trust company that was set up in 2001 to compensate asbestos victims was likely to run out of money this year. With thousands of people yet to fall ill from a disease that can develop many decades after exposure, it was estimated that the trust would fall short by $1.5 billion. These were people who had gone to work not knowing that the product they worked with would kill them.

It is said that an idea is worth nothing if it has no champion. Bernie Banton became the champion for those with asbestos-related diseases. Bernie told a story about a corporation that produced a fatal product, a corporation that callously ignored and hid the dangers and later sought to avoid its responsibility. Bernie played a pivotal role in the establishment of an adequate compensation scheme by way of his ability to capture public imagination and attention. He was an ordinary man, an ordinary Australian, but he exemplified the best spirit of us. He would not be beaten. Throughout his campaigning, Bernie was provided with unwavering support by the trade unions. He recognised their power to make a positive difference in the lives of working people. It was a fitting tribute that in his victory speech the new Prime Minister, Kevin Rudd, chose Bernie to exemplify all that is good and decent in the Australian trade union movement.

Bernie also received strong support from the New South Wales Government. The Premier's predecessor Bob Carr established the Jackson inquiry despite advice from the Commonwealth and others that the inquiry had no legal standing and could not succeed. The Jackson inquiry exposed the former directors of James Hardie and ultimately led to the establishment by the company of a $1 billion fund in February this year to help the victims of its products. Bernie, the New South Wales Government, unions and asbestos support groups had campaigned for that fund. Bernie's lobbying also helped in the creation of the research institute for asbestos diseases at Concord and, belatedly, the Commonwealth subsidy for the mesothelioma control drug Alimta.

In August this year Bernie was diagnosed with mesothelioma and, in a legal first, he sought further exemplary damages for James Hardie's failure to protect workers against the risks of asbestos. Bernie achieved an out-of-court settlement just five days ago. It was another important victory as it paves the way for others in a similar position to Bernie to take action for additional awards. Bernie's death marks the end of a great struggle, both personally and to get justice for James Hardie victims. His was a life served with purpose. He was a man whose memory will live on in the hearts of his family and friends and in the hearts of those and their families who will benefit from his courageous efforts. He was an Australian hero and he will be greatly missed by us all.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [2.50 p.m.]: Aged 61, Bernie Banton died today from mesothelioma. He is survived by his wife, Karen, five children and eleven grandchildren. His wife, Karen, said he wanted to be remembered as "Bernie Banton—fighter for justice for all", and he once said that he wanted to be remembered as "a good bloke, a fair dinkum bloke, who says it as he sees it and doesn't give in for anybody".

Bernie's journey started off innocently enough. In 1968 his brother Ted, a factory foreman, helped land him a job with James Hardie Industries at its plant in Camellia, in Sydney's west, where Bernie worked for six years. Working the night shift, Bernie made lagging materials for power stations: a process that involved combining cement, silica and asbestos. In 1974 he left the factory, and no doubt thought little about the terrible price he would pay for this work. In 1999 Bernie was diagnosed with asbestosis. Of his 137 workmates at the plant at that time only a handful are thought to be still alive. In 2001 his brother Ted died from mesothelioma.

Another brother, Albert, who also worked at the factory, has asbestosis. As Bernie told Andrew Denton in 2006, the average time from diagnosis of mesothelioma to death is a mere 153 days.

Of his work with sufferers and as Acting President of the Asbestos Dust Diseases Foundation of Australia, he said, "What a wonderful opportunity I've had to represent all those victims out there who weren't well enough to do it." Bernie once said, "I said to Hardies long ago, while I still have breath left in my body I would fight them to get justice for sufferers of asbestos." He fought for justice until the end. Just days ago he gave evidence to the compensation tribunal from his hospital bed relating to his claim for exemplary damages. His testimony won extra compensation for his family, but at a terrible price.

It was yet another win that had earlier seen James Hardie forced to set up a $4 billion fund to compensate asbestos victims. When the original $1.5 billion fund started to dry up, Bernie campaigned to get the pool extended to make sure victims could access compensation. Throughout his illness Bernie fought to ensure James Hardie did not get away with its actions, yet through all of the battles with James Hardie and its management he retained compassion, saying of mesothelioma that he "wouldn't wish it on a Hardie's executive."

Mr Banton was appointed a Member of the Order of Australia for his services as an advocate for those with asbestos-related diseases in the 2005 Queen's Birthday Honours List. He was a 2007 New South Wales Senior Australian of the Year finalist, and he even had a bridge in his home city of Parramatta named after him. The Premier announced today that the dust diseases ward at Concord hospital will be renamed the Bernie Banton Ward tomorrow. The Leader of the Opposition, Barry O'Farrell, said today:

> The people of New South Wales today mourn the loss of Bernie Banton, a man who showed great compassion for his fellow victims and worked tirelessly to ensure their voices were heard. It was a fight fought in some of the most difficult personal circumstances and demanded immense personal courage and sacrifice. Struggling against immense personal suffering, Mr Banton nevertheless continued his battle.

Members and officers of the House stood in their places.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Order of the Day No. 1 postponed on motion by the Hon. Tony Kelly.

CONSUMER CLAIMS AMENDMENT BILL

Second Reading

The Hon. JOHN DELLA BOSCA (Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance) [2.55 p.m.]: I move:

> That this bill be now read a second time.

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

Leave granted.

> I have great pleasure today in introducing the Consumer Claims Amendment Bill 2007, which implements the recommendations of the statutory review of the Consumer Claims Act 1998. The Act lets people take consumer disputes to the Consumer, Trader and Tenancy Tribunal where there is a range of remedies available. The tribunal resolves disputes in an accessible, informal, efficient and inexpensive manner. The Consumer Claims Act, which first came into operation on 1 March 1999, enables the tribunal to make orders relating to the general supply of goods or services, including orders for the refund of purchase money or faulty goods to be replaced. The bill I introduce today arises as a result of the Government's consultation with interest groups and stakeholders during a statutory five-year review of the Act's operation in practice.
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> Relevant interest groups were invited to identify issues they felt should be included in an issues paper. The Office of Fair Trading released an issues paper for public consultation and 22 submissions were received in response. Submissions came from industry and consumer groups, as well as individual traders, consumers, government agencies and other interested stakeholders. A report on the review was tabled in Parliament by my colleague the Hon. John Hatzistergos. The review found that the policy objectives of the Act remain valid and the terms of the Act are appropriate for serving its objectives. The review recommended a number of refinements to enhance the operation of the Act. The amendments in the bill are designed to improve dispute resolution processes for parties involved in consumer and general marketplace disputes. The bill's provisions fall into four categories relating to the objectives of the Act, the Act's definitions, the Act's jurisdiction in respect of consumer claims and orders able to be made by the tribunal.

I will now take the opportunity to outline the main provisions in the bill under these four categories. Currently the Act does not contain specific objectives. The bill specifies that the Act's objectives will be to provide certain remedies to consumers concerning the supply of goods and services, and to simplify and improve dispute resolution for parties involved in consumer and general marketplace disputes. This makes the purpose of the Act clear. It will assist in ongoing assessments of the legislation's effectiveness and any future reviews of its operation. The review found that some of the definitions in section 3 of the Act lack clarity about the tribunal's jurisdiction over claims relating to the supply of goods and services. Currently, the definition of a consumer claim can include a supply of goods or services by a supplier to a consumer, even if there is no contract between them. On the other hand, the definition of "supply" refers to an agreement to supply goods or services under a contract.

Submissions to the review raised concerns that consumers may not always be able to obtain relief under the Act when there is no direct contract, even though a manufacturer or distributor may have a legal liability to the consumer. The bill addresses this problem in new section 3A, which clarifies the definition of consumer claim and additionally makes it clear that the claim may, but need not necessarily, arise under a contract; that if there is no contract, there must at least be a "supply" between the consumer and a supplier; and that the supplier need not be the immediate supplier, but must be involved in the supply of the goods or services. The amendment will not change the effect of the Act but will clarify its meaning and remove the current capacity for confusion. The third group of amendments will clarify and improve the tribunal's jurisdiction in a number of areas. In the 2004 case of *Oubani v MCI Technologies* the Supreme Court found that the tribunal has jurisdiction where goods or services are supplied to a consumer in New South Wales, regardless of where the contract was made.

In the case in question, the contract was formed in Queensland, because the company was based in Queensland and accepted the consumer's offer over the telephone, but the goods were supplied in New South Wales. The court found that the tribunal had jurisdiction to hear the consumer's claim. Before this decision, it was thought that the tribunal's jurisdiction was based on where the contract was made, rather than where the goods or services were supplied. However, the decision raised doubts as to whether the tribunal has jurisdiction only if the supply takes place in New South Wales. Industry and consumer groups, in their submissions to the review, favoured clarifying the Act to make sure the tribunal has jurisdiction when the supply of goods or services has taken place in New South Wales, the supplier has agreed to supply goods or services in New South Wales, or the contract for the supply of goods or services was made in New South Wales.

Another jurisdictional issue raised in the review related to the time limit for commencing action under the Act. Currently the tribunal has jurisdiction where a claim is lodged within three years of the date the goods or services were supplied or meant to be supplied. However, in some cases, goods are supplied with warranties of longer than three years, which means the provisions of the Act may prevent a consumer from enforcing a warranty. To address this issue, the bill changes the time for commencing action to three years from the date when the cause of action accrues, that is, when the problem arises. This will mean that a consumer who wishes to lodge a claim relating to a broken washing machine, for example, will have three years to do so after the machine breaks. It is also necessary to contain the time period for lodging an application, as it would not be reasonable to allow claims to be made over an indefinite period. The bill accordingly provides that action must be commenced within 10 years of the date of supply. This is consistent with section 75AO of the Trade Practices Act 1974 concerning the liability of manufacturers and importers of defective goods. That provision requires action to be commenced within three years of the claimant becoming aware of the problem, but at any rate within 10 years of supply.

The final group of amendments relates to the types of orders that can be made by the Consumer, Trader and Tenancy Tribunal. Section 8 of the Consumer Claims Act outlines the orders the tribunal can currently make. If the consumer's claim is partly or wholly successful, the respondent can be ordered to pay money, do rectification work or supply services, return or deliver goods to the claimant, or replace goods. If the claim is determined wholly or partly in favour of the respondent, the consumer may be ordered to pay the respondent money or return specified goods. The review noted that these provisions leave a gap in the Act whereby if the consumer's claim is completely successful, an order cannot be made for goods to be returned to the respondent and the purchase price refunded. Submissions to the review overwhelmingly supported an amendment to the Act to enable the tribunal to make an order for a supplier to refund part or all of the purchase price and for a consumer to return part or all of the goods when a consumer's claim is successful.

The bill amends section 8 of the Act to implement this recommendation. Another issue identified by the review relates to orders between respondents. The Act allows the tribunal to make orders for a claimant to pay money to a respondent and vice versa. However, there may also be occasions when it would be appropriate for the tribunal to order that a respondent pay money to another respondent. For example, a consumer may lodge a claim against a retailer and a manufacturer seeking a refund of the cost of faulty goods. The manufacturer may agree to refund at the price the goods were supplied to the retailer, but that may be substantially different to what was paid by the consumer. A retailer may be less averse to an order against it if there was an ancillary order against the manufacturer for the cost paid by the retailer.

The Act currently does not allow this to happen, creating difficulties for the tribunal and the parties in resolving claims. A power to make orders between respondents currently exists under the Home Building Act 1989. The proposed amendment will enable the tribunal to do so in relation to consumer claims. All parties that responded to this issue supported the proposed amendment. The final amendment that I will go into today relates to orders the tribunal can make where the claimant does not pursue their application. The Act only permits consumers to lodge a claim in the tribunal, and this is entirely appropriate. In cases where the consumer does not attend the hearing of their application, suppliers often request that the tribunal make an order for the consumer to pay money. However if it did this, the tribunal in effect would be determining a claim by the supplier. In these circumstances the tribunal should make orders to either dismiss the application or adjourn the proceedings.

At the moment, however, there is uncertainty as to whether the tribunal can entertain what is effectively a cross-claim by the supplier, or whether the supplier must take debt-recovery action through the Local Court. The review recommended the Act be amended to make it clear that the tribunal cannot determine a claim, and may only adjourn or dismiss proceedings where the claimant fails to present their case but does not formally withdraw the claim. I would like to stress that this amendment will not remove the claimant's right to submit documentary evidence to the tribunal to enable their application to be determined on the papers, for instance, where they are not able to or do not wish to attend the hearing in person. The review recommended also that the tribunal's maximum jurisdiction under the Act of $25,000 be increased to $30,000. This recommendation was implemented on 1 September 2007 when the Consumer Claims Regulation was remade.

The bill includes a consequential amendment to provide that the $30,000 limit applies also to orders made between respondents. In concluding, this bill delivers a range of refinements and improvements to the Consumer Claims Act to significantly improve the Consumer, Trader and Tenancy Tribunal's ability to resolve disputes between consumers and traders effectively. It comes as a result of the Government's statutory review, which involved extensive consultation with stakeholders, and it deserves to receive strong support. I commend the bill to the House.

The Hon. CATHERINE CUSACK [2.56 p.m.]: I support the Consumer Claims Amendment Bill 2007. A recent regulatory impact statement released by the Government outlines the history of the Consumer Claims Act 1998. The Act came into operation on 1 March 1999 and into simultaneous operation with the Fair Trading Tribunal Act 1998. The Consumer Claims Act was one of a number of Acts that conferred jurisdiction on the Fair Trading Tribunal. In 2002 the Fair Trading Tribunal was merged with the Residential Tribunal to form the current Consumer, Trader and Tenancy Tribunal. Claims under the Consumer Claims Act are now heard in the General Division of the Consumer, Trader and Tenancy Tribunal. According to the regulatory impact statement, in the year 2005-06 the Consumer Trader and Tenancy Tribunal received 5,177 applications under the Consumer Claims Act.

Section 21 of the Consumer Claims Act requires that it be reviewed after five years to determine whether its policy objectives remain valid and whether its terms remain appropriate for securing those objectives. This review was tabled in Parliament on 5 April 2005. I believe that to be a year late; however, it is possible the review was completed in 2004 and the Government just held the report for an inordinately long period before tabling it. Cabinet gave approval on 26 July 2005 for miscellaneous amendments to the Act, yet it has taken two years and four months for this House to consider amendments that were first discussed in 2004.

I continue to highlight the inexplicable and inordinate delays in bringing to Parliament relatively minor amendments that are not controversial but are of benefit to the good governance of this State. There have been delays of many years in the reforms to the Associations Act and the Tenancy Act. Four years after New South Wales was tasked to prepare draft legislation to regulate mortgage brokers nothing has been produced, and not only New South Wales but also all Australia is unregulated as a result. The amendments before the House aim to give clarity and certainty to the operation of the Consumer Claims Act, and they are not opposed by the Opposition.

I turn to the specific measures. The objectives set out in the bill clarify the jurisdiction of the Consumer, Trader and Tenancy Tribunal to hear small claims matters, to alter the time limitations that apply to applications made to the tribunal, and to clarify the tribunal's powers to make orders. The question of jurisdiction has required finetuning. The supply of goods involves a chain of businesses beginning with suppliers of a manufacturer through to the retail outlet where consumers purchase goods. These amendments will ensure that the Consumer, Trader and Tenancy Tribunal may hear and determine a consumer claim arising from or in connection with the supply of goods or services to the consumer against a supplier who is not the direct supplier of the goods or services—in other words, the retailer. It enables the consumer to make claims at an earlier stage of the supply line.

The amendments clarify that the tribunal may hear and determine consumer claims only where the applicable goods or services were supplied in New South Wales, when a contract or other agreement to which the claim relates contemplated that the goods or services would be supplied in New South Wales, or when a contract or other agreement to which the claim relates was made in New South Wales. The bill extends the limitation period applying to the lodging of consumer claims with the tribunal. Currently claims must be lodged within three years from the time the problem arose to a limit of 10 years from the date of supply. This reflects the fact that warranties for products can extend for five years or longer, and it will ensure that problems with enforcing consumer rights under warranty are not confounded by the current wording of the Act.

The amendments also expand the range of orders that the tribunal may make in determining the consumer claim by clarifying that it can order refunds for faulty goods. The amendments will ensure that the tribunal cannot determine a claim and may adjourn or dismiss the proceedings only when the claimant fails to present his or her case but does not formally withdraw the claim. Finally, the amendments will increase the amount that can be considered under the Consumer, Trader and Tenancy Tribunal's jurisdiction from $25,000 to $30,000. This is consistent with the review of regulations that I have already referred to and the $30,000 proposed is an appropriate limit. These amendments will streamline the administration of the Act and are consistent with its intention.

My colleague the member for Bega—who must be complimented for his strong performance representing the Opposition on Fair Trading—struck a very raw nerve with the Minister during debate on this

bill in another place. The member raised significant concerns about appointments to the Consumer, Trader and Tenancy Tribunal and linked politicisation of appointments to its poor performance. I certainly share those concerns, which have been borne out by adverse comments in various reviews, including the 2006 McClelland report and the recent Ipsos focus group research that surveyed first-time users of the tribunal. The research revealed that the Consumer, Trader and Tenancy Tribunal may be finalising 60,000 disputes, but that is totally different from resolving them. The tribunal may be cost effective to government, but it is incredibly costly in time and money and demoralises the parties who use it.

For most people caught up in disputes being resolved by the Consumer, Trader and Tenancy Tribunal it will be their only involvement in a legal or quasi-legal system. The Ipsos research shows their experiences are overwhelmingly negative. The 44 focus group participants made 49 negative statements and only 14 positive statements, including one that "the guard and reception staff were very helpful in finalising matter". Most found the experience biased, unfair, frustrating, costly, stressful and confronting. I am not at all surprised by the research findings. I have yet to hear of a happy Consumer, Trader and Tenancy Tribunal customer. People are often shocked to find rules are not consistently and fairly enforced, that errors can be made but there is no appeal, and that members are rude by running late for hearings or telling the parties they are too busy to take further submissions or to allow questioning on a matter.

These comments hit a raw nerve with the Minister in another place. I am astonished that she is claiming to be oblivious to all the problems. Based on our correspondence as members of Parliament and the recent public hearing conducted by the Hon. Robyn Parker's committee inquiring into home building warranty, my colleagues and I are alarmed. I again urge the Minister to take action to ensure that reforms are timely and that organisations operating under her portfolio are effective, efficient, fair and responsive. As Minister for Fair Trading she owes a particular duty of care to consumers of services provided by her own organisation. The Opposition does not oppose this bill.

Dr JOHN KAYE [3.04 p.m.]: The Greens support the Consumer Claims Amendment Bill, which enacts the findings of the statutory review of the Consumer Claims Act 1998. This bill strengthens that Act because it facilitates consumers making claims before the Consumer, Trader and Tenancy Tribunal. That legislation and the ability to make claims before the tribunal is extremely important in protecting consumers across New South Wales. The Consumer, Trader and Tenancy Tribunal, if it works properly, provides affordable and cost-effective redress for consumers if they have purchased faulty, defective or substandard goods. It deals in particular with claims of less than $25,000—or after the legislation is amended for claims of less than $30,000. It allows consumers to avoid the expense of obtaining common law damages or relief under the Trade Practices Act, which is likely to be extremely expensive. Therefore, in theory, the Consumer, Trader and Tenancy Tribunal does reduce costs, and that is particularly important as the cost of legal proceedings escalates.

However, the process is not simply about redressing the damage done to consumers; it also has a salutary and exemplary effect on suppliers of goods and services. This is doubly important in a highly deregulated environment in which governments are taking less and less responsibility for inspection and prosecution services involving faulty goods and services or those that do not live up to the claims made about them. That being said, no regulatory system could possibly capture all the faulty goods and services on the market. The importance of this legislation is highlighted by the large number of dangerous and faulty goods that have come onto the market in the past few years. I refer particularly to toys, such as the Bindeez beads, toys decorated with lead paint and small magnets in children's toys imported from China. The moral to this story is that the competitive pressure on manufacturers is forcing many firms to cut corners and as result we are seeing a race to the bottom of the scale in product standards. It is therefore important that regulations and organisations like the Consumer, Trader and Tenancy Tribunal exist to protect consumers.

The bill makes sound amendments to the objectives of the Act and clarifies the powers and jurisdiction of the Consumer, Trader and Tenancy Tribunal. Most importantly, it extends the statute of limitations for taking action to the tribunal to three years from the date on which the cause of action gave rise to the claim; that is, when the cause of action was first discovered by the consumer rather than the date of purchase. That is much fairer, particularly for consumers who buy a product and leave it in its box for some time. The bill also increases the limit for actions before the Consumer, Trader and Tenancy Tribunal to $30,000 from $25,000. That increase is in line with consumer price index increases since the $25,000 limit was set. The Greens would prefer a higher limit to allow more consumers to access the tribunal because that remedy is not as expensive as going to court. Unfortunately, over the next five years, before we have any chance of seeing the results of the next statutory review, much of that benefit could be eroded by inflation.

The bill is a positive contribution to protecting consumers and as a result the Greens support it. However, we take this opportunity to sound the alarm about areas that this and other legislation cover. In particular, we argue that consumer protection is entering a new era and will face a set of challenges the likes of which we have not seen before. The environment in which manufacturers now operate, especially in Asia—and in particular in China—has become increasingly competitive. That has put pressure on manufacturers to produce goods at ever-reducing costs. In many cases the only way to achieve the required production cost reductions is to cut corners on safety and reliability. One cannot entirely blame the manufacturers. The South East Asian and Chinese markets have become increasingly cutthroat and survival is perceived to depend on reducing costs every year, and every year those lower costs mean more pressure on producers to reduce standards. That means we will see many more Bindeez beads, lead painting on toys, formaldehyde in blankets, dangerous chemicals in toothpaste, dangerous small magnets and a whole range of consumer product issues that have evolved because of pressure on producers. This will put enormous stress on the consumer protection administration.

This bill will help in some small measure to meet that challenge, but it does not go far enough. The Greens will be arguing for a nationally coordinated independent testing regime for safety and quality and to ensure that manufactured goods live up to the claims made for them. We will be arguing for tighter labelling laws, particularly on food. We will also be looking for a greater degree of truth in labelling, especially with respect to environmental claims. We believe penalties need to be tightened up. There needs to be a greater degree of consumer education, particularly with respect to the opportunities consumers have to seek redress through tribunals such as the Consumer, Trader and Tenancy Tribunal. We will also be arguing for the enlargement of the Office of Fair Trading with a renewed focus on consumer protection. The Greens support the bill.

Reverend the Hon. FRED NILE [3.10 p.m.]: The Christian Democratic Party supports the Consumer Claims Amendment Bill 2007. The bill will amend the Consumer Claims Act 1998 in line with the findings of the statutory review of the legislation conducted in 2005. We are pleased that the Government has introduced this legislation as it provides additional protection for the consumers of New South Wales, with access to certain remedies concerning the supply of goods and services and it makes provision for associated matters. It is one of a number of Acts that confers jurisdiction on the Consumer, Trader and Tenancy Tribunal. These amendments have arisen from the review of the Act that was conducted in 2005. The report found that while the policy objectives of the Act remain valid, improvements to the Act could be made in regard to a range of provisions including those relating to its objectives, its definitions, its jurisdiction in respect of consumer claims and orders able to be made by the tribunal.

The review recommended that the tribunal's monetary jurisdictional limit be increased to $30,000. This is an important amendment because of the value of items that consumers are currently purchasing. This provision was implemented when the Consumer Claims Regulation was made on 1 September 2007. I am still getting complaints from consumers who are very unhappy with the gap that seems to be in the system when it comes to complaints about building companies. A building company supplies them with a house. They are the consumers but they find it difficult to get justice. The Government should ensure that consumers with genuine complaints about faulty construction receive quick and suitable redress of those wrongs, and even compensation. We have had increasing complaints about imported items. Honourable members are aware of the recent controversy over children's toys and the beads containing drugs. Pressure on producers should be no excuse for them producing dangerous or faulty items, especially those used by children.

This bill will specify the objectives of the Act. It will make clear that the objectives of the Act are to provide remedies to consumers concerning the supply of goods and services and to simplify and improve dispute resolution for parties involved in consumer disputes. It will clarify definitions. It will also clarify that the tribunal has jurisdiction when the supply of goods or services has taken place in New South Wales. It will amend the time limits applying to the lodging of consumer claims with the tribunal. Currently the time limit is three years from the date the goods or services were supplied or were required to be supplied. The amendment will change the time limit to three years from the date when the cause of action accrued. However, the action must still be commenced within 10 years of the date of supply. Finally, the bill will also amend the types of orders that can be made by the tribunal. We are pleased to support this important consumer legislation.

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.14 p.m.], in reply: I thank honourable members for their contributions to this debate. The Consumer Claims Amendment Bill 2007 has broad support. 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. Penny Sharpe agreed to:

That this bill be now read a third time.

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

POLICE 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 incorporate the second reading speech in *Hansard*.

Leave granted.

I am pleased to introduce the Police Amendment Bill 2007.

The Report on the Review of the Police Act 1990 was tabled in this House on 25 October 2006. The Review concluded that the policy objectives of the Act remain valid, and that the terms of the Act generally remain appropriate for securing those objectives.

The Report contained 56 recommendations, most of which were for legislative changes to improve the operation of the Police Act, having regard to its policy objectives.

Members will undoubtedly recall that a substantial proportion of these recommendations were included in the Police Amendment (Miscellaneous) Bill that was passed by Parliament in the Spring Session of 2006.

That Act ensured that some of the key recommendations were implemented without delay. These included:

- Emphasising the law enforcement role of police in New South Wales with the restoration of the title New South Wales Police Force

I would like to thank all the participants in the consultation process who together played an invaluable role in the development of this bill.

The amendments as proposed for the draft bill relate to two groups of recommendations. These are:

- Employment related matters aimed at promoting further consistency of the Police Act with the Public Sector Employment and Management Act; and
- matters relating to complaints, under Part 8A of the Police Act.

I will now briefly take the members' through the proposed amendments:

Employment provisions

The Public Sector Employment and Management Act introduced modern and consistent employment standards for persons in the Public Service, a public authority, in a statutory position and, in certain circumstances, to officers in the New South Wales Police Force.

- Bringing greater consistency in the employment of senior executive police officers and those of the public sector generally;
- Removing the requirement to categorise complaints against police;
- Removing of the statute of limitations for bribery offences; and
- Increasing penalties for persons impersonating a police officer.

The bill I have introduced today addresses the remaining recommendations of the Police Act Review Report.

These were matters that required further consideration by the Government and further consultation with the key stakeholder groups to ensure that any legislative reforms would achieve the outcomes intended by the Police Act Review and would be in the public interest.

The main bodies consulted on these proposals were the New South Wales Police Force, the Police Integrity Commission, the New South Wales Ombudsman, Police Association of New South Wales and the Ministry for Police.

Many of these provisions have been incorporated into the Police Act, sometimes in their entirety or sometimes in part. Some were also incorporated into the Police Act by the Police Amendment (Miscellaneous) Act 2006.

The bill will advance this administrative reform process by making further amendments to broaden the consistency between the two Acts and to incorporate notes into the Police Act to draw attention to certain employment provisions In the Public Sector Employment and Management, or PSEM, Act that already apply to police officers but are sometimes overlooked.

It is proposed to amend section 25 of the Police Act to provide that an acting Commissioner of Police is to be appointed by the Minister, rather than by the Governor on the recommendation of the Minister. The amendment will also enable an acting Commissioner to be appointed if the Commissioner is suspended.

Such acting appointments would only be for short-term periods.

The proposed amendments are consistent with the PSEM Act and will simplify the current cumbersome administrative process.

Section 26 of the Act will be amended to provide that the Commissioner or an executive officer may be re-appointed with effect before the expiry of the Commissioner's or executive officer's term of office. In that case, the Commissioner's or executive officer's existing term of office will expire. This is similar to section 68(2) of the PSEM Act.

Section 41 of the Police Act will be amended to provide that a contract of employment of an executive officer may constitute an instrument of appointment. This will remove some unnecessary paperwork in the appointment process, and is consistent with section 69(4) of the PSEM Act.

The Commissioner will be empowered to appoint officers to act in non-executive police officer or non-executive administrative officer positions if the position is vacant or the holder is suspended, sick or absent. Currently, this situation is dealt with by way of temporary appointments. These provisions will largely duplicate section 24 of the PSEM Act.

Provision will also be made for the Commissioner to retire an executive officer, a non-executive officer or a nonexecutive administrative officer who is found on medical grounds to be unfit to discharge or incapable of discharging the duties of the officer's position. This will be consistent with section 25 of the PSEM Act.

In a similar vein, the position of a non-executive officer or a non-executive administrative officer will become vacant if the officer abandons his or her employment in the New South Wales Police Force. This is an addition to the provisions that outline the ways by which a position becomes vacant. It will bring the Police Act in line with section 26 of the PSEM Act.

The provisions relating to the employment of temporary employees to carry out work in the New South Wales Police Force have been substantially expanded to capture most of the provisions of the PSEM Act relating to the employment of temporary employees.

The Act will stipulate a maximum period for temporary employment at anyone time of three years, rather than the current period of four months, and provide for reemployment of a temporary employee to be in accordance with guidelines issued by the Commissioner.

The employment of temporary employees for periods of 12 months or more will be limited to employees selected on merit.

A note will be inserted in the Police Act to advise on the provisions of the PSEM Act that apply to members of the Police Force. They include issues such as cross-agency employment; employees contesting State elections and the re-appointment of employees resigning to contest Commonwealth elections.

Complaints

I now turn to the complaints provisions. The bill provides for minor amendments to Part 8A of the Police Act (which relates to the management of complaints made against police officers) and improves the capacity of the Ombudsman to report and consult with the Minister for Police and the Commissioner for Police in relation to police complaints.

Section 129 of the Police Act will make it clear that complaints made directly to the Police Integrity Commission or the Ombudsman are not required to be entered into the complaints information system unless the Police Integrity Commission or the Ombudsman so directs. This will assist, where required, in protecting the identity of complainants.

Section 144 of the Act will make it clear that the power to investigate a complaint includes the power to take any action necessary to resolve the complaint in the manner the Commissioner thinks fit, including alternate dispute resolution.

These amendments will assist police resolve complaints without recourse to full-scale investigations, where not appropriate, and allow for the more timely resolution of minor complaints.

This is supported by Section 148A which will confer on the Commissioner an express power to decide to take no further action in relation to a complaint.

Section 154 of the Police Act enables the Ombudsman to request the Commissioner to review a decision to take no further action in relation to a complaint.

These amendments give the Commissioner greater control over the management of complaints, and support the role of the Ombudsman in overseeing the management of complaints.

Functions of the Ombudsman relation to complaints

Currently, the Ombudsman may make a special report to Parliament at any time about any matter connected with the Ombudsman's functions under the Police Act relating to complaints.

Sections 160, 161, 161A and 162 of the Police Act will enable the Ombudsman to report to the Minister for Police and the Commissioner on any such matter. These amendments regarding special reports replace previous provisions.

Section 163(6) of the Act will enable the Ombudsman to publish police information, including critical police information) to the Minister as well as the Commissioner.

Amendment of the Police Integrity Commission Act 1996

As a result of the amendments to the Police Act there are a small number of consequential amendments to the Police Integrity Commission Act.

Section 74 of the Police Integrity Commission Act provides for the termination of police investigations. The amendment will provide for the Police Integrity Commission to notify the Commissioner of Police instead of the Ombudsman on the completion of an investigation into a police complaint, or a decision to discontinue an investigation.

At schedule 2 there is an amendment enabling the making of regulations containing savings and transitional provisions.

Conclusion

In conclusion, this Government is pleased to bring forward these amendment to ensure that Police are equipped with the most modern and effective legislation to help them fight crime and operative with optimum efficiency.

I commend the bill to the House.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [3.15 p.m.]: I lead for the Coalition in debate on the Police Amendment Bill 2007. We will not be opposing the bill, but I will be seeking to amend it in one area that I will speak to shortly. The amendments to the Police Act 1990 and the Police Integrity Act 1996 arise out of a statutory review of the Police Act which was conducted by the Ministry of Police and which was tabled in Parliament in October last year. The review recommended changes to the Police Act to align provisions with the Public Sector Employment and Management Act 2002, including provisions about the appointment of staff. The overwhelming majority of this legislation deals with the employment of staff. The other aspects of the bill deal with complaints against police that, as I will indicate shortly, formed part of the review.

The amendments to the bill provide that an acting commissioner of police can be appointed by the Minister rather than by the Governor on recommendation of the Minister. An acting commissioner can be appointed if the commissioner is suspended. The commissioner can be reappointed before his or her term of office expires—it is in that area that I will be seeking to amend the bill slightly. The bill also provides that a police officer can be paid an allowance while exercising the functions of a position even though he is not appointed to act in the position. It further amends the current practice in that an executive officer can be appointed before his or her term of office expires. It also empowers the commissioner to retire an executive officer, a non-executive police officer or administrative officer found to be unfit or incapable of discharging the duties of their positions. Officers can act in non-executive police officer and administrative officer positions if vacant or if the holders are suspended, sick or absent from work. Non-executive police officer or administrative officer positions become vacant if an officer abandons his or her employment in the New South Wales Police Force. The final part of the bill relates to the three-year maximum period of temporary employment. However, if it is a merit selection position it has to satisfy the criterion of 12 months or more.

I am proposing an amendment because I am concerned that the bill will allow a government—irrespective of its political persuasion—to make an appointment of a commissioner out of sequence. For instance, in the lead-up to an election nothing will stop a government from renewing the contract of a commissioner who may be under, for example, a five-year contract—I am not referring to the current Commissioner of Police—and there is no ability for that decision to be challenged. If the term of office of a commissioner is to expire on a date following an election and the proposed date of reappointment is less than 12 months before the election date, my proposed amendment stipulates that the reappointment cannot take place. The five-year contract of the current commissioner runs until 2012. However, under the bill as it presently stands, in the 12 months prior to the 2011 election campaign the Government could renew the commissioner's contract even though it had some years to run. It is my view that a commissioner should not be reappointed

within 12 months prior to an election if the contract is being renewed ahead of schedule. My proposed amendment seeks to add a level of protection so that in the lead-up to an election campaign the community has a degree of scrutiny over the Government and reappointment of a commissioner of police.

The position of Commissioner of Police is special in that it is independent of government. Over the last couple of years the Government relied heavily on the former Commissioner of Police particularly in regard to announcements containing bad news. The Government always trotted out the commissioner, rather than the Minister of the day. The Government preferred to make positive announcements and to leave the bad news to the commissioner. We saw that in the lead-up to the election campaign. I held the view then, and I continue to hold the view, that there needs to be some level of independence from government. I am also concerned about the appointment procedure by the Minister. The Opposition has considered the bill and will not oppose it. However, we will closely monitor it. Nevertheless, the Opposition's foreshadowed amendment with respect to the reappointment of a commissioner of police will allow a level of scrutiny in the lead-up to the election. It is a sensible amendment—I will be surprised if the Government does not support it. I reiterate: the amendment prevents any appointment being made out of sequence in the lead-up to an election campaign and it allows the public to consider the matter.

The bill also deals with complaints against police. Some members may be concerned about the commissioner's significant powers with respect to the resolution of complaints. I contacted the Ombudsman's office to ensure that this is consistent not only with the recommendations of the ministerial review but also with the role of the Ombudsman. I have been advised that the Ombudsman is not opposed to the changes. The bill will allow greater flexibility for the commissioner to the deal with the class of complaints that do not automatically fall within the purview of the Police Integrity Commission. These are more managerial or less serious matters such as an officer's attitude or customer service type matters. Indeed, it appears that the Ombudsman is working with the Commissioner of Police to put forward a series of changes that will free up police time. I suspect that they are a result of a recommendation made by the Commissioner of Police, who is working in tandem with the Ombudsman. As a result of the ministerial review of the Police Act, 56 recommendations were made. A large number of these recommendations have been included in the Police Amendment (Miscellaneous) Bill 2006. This bill addresses the remaining recommendations. I shall move my foreshadowed amendment in Committee.

Ms SYLVIA HALE [3.25 p.m.]: The Greens do not oppose the Police Amendment Bill 2007, although we have reservations about some aspects of it. The bill amends the Police Act 1990 and the Police Integrity Commission Act 1996 following a statutory review of the Police Act 1990 by the Ministry of Police. The review was tabled in October 2006. Much of the bill concerns work arrangements and the appointment of persons to fill vacant positions on an ongoing, rather than a temporary, basis. A temporary period of employment may, however, extend to three years rather than the four months that currently applies. One must wonder whether the end result will be to permit what is, in effect, a permanent appointment without a position being advertised. I note that anyone employed temporarily for 12 months or more will be required to have been selected on the basis of merit. The implication is that an employee may act in a position for up to 12 months without ever having to front a selection panel. The commissioner is given considerable discretion in terms of public scrutiny appointments. Further, the bill states:

> The Commissioner may exempt the employment of a person … if the Commissioner determined that the special circumstances of the case justified the exemption.

The commissioner, therefore, has the power to ignore the requirement for merit selection for any position whether longer or shorter than 12 months. Recently numerous allegations have been circulating about inappropriate appointments within the Department of Corrective Services. I am concerned that the provisions before us today may facilitate questionable appointments not based on merit to occur within the New South Wales Police Force, especially at senior levels. I understand that the Opposition has concerns about the provisions relating to the reappointment of a commissioner prior to the end of a commissioner's term—that is, the provision may be used in the period prior to a State election to allow the Government to reappoint a commissioner and thus, presumably, frustrate any desire on the part of the incoming government to make a clean sweep. My reading of the Act is that under section 28, "Removal of Commissioner", a commissioner may be removed should the Minister so recommend. Section 28 states:

> The Governor may remove the Commissioner from office on the recommendation of the Minister at any time for any or no reason and without notice.

I await with interest the Opposition's amendment, which we will consider very seriously. I turn now to the provisions dealing with the functions of the Ombudsman relating to complaints. I understand that the Ombudsman's office is supportive of the bill, but not all of the Ombudsman's requests have been incorporated into the bill. Currently the Ombudsman may make a special report to Parliament at any time about any matter connected with the exercise of the Ombudsman's functions under the Police Act relating to complaints. That provision has been retained and has been enhanced in relation to auditing matters as well.

While the current wording has been maintained, the bill replaces current section 161, which provides for the making of information public. The effect of the change is to remove the requirement that the Ombudsman publish information about the rights and responsibilities of both the police and the public. I am not sure why that provision has been removed. Perhaps the Minister will be happy to explain why that information-providing role of the Ombudsman is to be deleted. When we turn to look at the issue of complaints, there are few improvements within the bill. We already have a veil of secrecy over many of these investigations. Often people get too little in writing from the Ombudsman, whose investigations may take months or even years. The Ombudsman may omit any matter from a copy of a report given to a complainant or a police officer, other than the commissioner, if the Ombudsman thinks it is in the public interest to do so.

A number of the provisions seem to be aimed at giving the commissioner greater powers to oversee complaints and to take any action that he or she sees fit, or to take no further action in relation to a complaint. The bill does nothing to change that situation. The police can still investigate themselves, and the Ombudsman's oversight role is relatively weak. Let us take, for example, the case of Police Commissioner Scipione's recent "investigation"—I use that term loosely—into police not wearing identification tags during the APEC demonstration, and the assault on photographer Paula Bronstein.

In the case of the non-display of badges, the commissioner made a very cursory investigation, and claimed that nothing untoward had occurred and that police did not wear the badges because wearing pin-attached or velcro-attached badges had previously injured police. According to the Commissioner of Police, wearing a badge is more of a hazard for police than the wearing of a weapon, such as a gun. I fail to follow the argument that the wearing of badges is hazardous. Indeed, during the budget estimates hearing and in answer to questions on notice the commissioner failed to provide a single instance of when police have been injured by their own badges.

The Hon. Eric Roozendaal: They don't wear them.

Ms SYLVIA HALE: I acknowledge the interjection by the Minister for Roads, and Minister for Commerce that they do not wear them. We still have not heard the commissioner's thoughts on the investigation by police of the assault on photographer Paula Bronstein and other persons during the APEC period. In fact, the commissioner displayed remarkably little knowledge of the details of APEC operations at the budget estimates hearing, which is somewhat surprising given his position and the importance attached to the event. It is not surprising that the Greens and many members of the public are sceptical about any procedures that involve the police conducting investigations into complaints about police conduct. As with so many of the checks and balances that have developed historically to protect the public from excessive use of executive power, the Government dismisses transparency and accountability mechanisms as red tape that must be eliminated.

Many people view the making of complaints to the Ombudsman about police behaviour as a waste of time. When police take it upon themselves to push a five-foot, slightly built, female photographer down onto the pavement for no apparent reason, people quite rightly perceive this to be an abuse of police powers. I understand that a number of people who participated in the APEC rally are obtaining legal advice regarding wrongful imprisonment, assault and other offences allegedly committed by police. This State has a history of royal commissions—like those of Justices Moffat and Wood—into aspects of police incompetence, corruption or brutality. In Victoria, a number of people who suffered injuries at the hands of police during the World Economic Forum in 2000 have recently received compensation payouts from the police. The information emanating from Victoria in recent days indicates that some members of Victoria Police are quite prepared to put their own interests ahead of those of the public.

Proposed section 161A enables the Ombudsman to omit police information, and requires the Ombudsman to omit critical police information, from copies of reports given to complainants or police officers. What sort of details will a complainant not be given? For example, will the name of an officer who had failed to wear a name tag and who was the subject of a complaint, or who used unreasonable force or obstructed the making of a phone call to a lawyer, be withheld? What guidelines will be in place to assist the Ombudsman in

determining whether information will be made available? For example, if a Greens member of this Parliament and a Senator who held a press conference in Farrer Place were watched, followed, and reported on by undercover police officers, could all reference to this operation be deleted on the grounds that it was a police surveillance or operational matter? These are questions that remain to be answered.

Although the Ombudsman can still require that a matter be investigated, the Commissioner of Police can bring to an end any investigation. The Ombudsman has the power to request a review of the commissioner's decision, but the extent of the Ombudsman's power beyond that is anything but certain. The Greens do not oppose the bill but are far from satisfied about how police investigations are currently handled in New South Wales. The bill does not worsen the situation, but neither does it make any great improvement.

Reverend the Hon. FRED NILE [3.35 p.m.]: The Christian Democratic Party supports the Police Amendment Bill 2007. The bill implements a number of recommendations from the statutory review of the Police Act 1990, principally relating to employment provisions of the New South Wales Police Force, and provisions relating to improving the police complaints management process. The statutory review of the Police Act 1990 was completed in 2006, and a number of its recommendations for legislative reform were brought forward in the Police Amendment (Miscellaneous) Bill 2006. A number of other matters were raised during the review but further consultation was needed between the members of the Police Force, the Police Force itself and the Police Association. That consultation has now been finalised, and we understand that all stakeholders support the proposals contained in the current bill.

The bill ensures greater consistency between the Police Act's employment provisions and the Public Sector Employment and Management Act 2002. It makes minor amendments to part 8A of the Police Act, which relates to the management of complaints made against police officers. This is an area of ongoing concern to police officers because of their sense that a multiplicity of organisations is now available to investigate complaints of various sorts, depending on the type and seriousness of the complaint. Nevertheless, many police officers are tied up for many hours dealing with the complaints that are made. Often the complaints are vexatious and nothing comes of them. However, one of the more serious effects on the morale of police officers is their concern that they do not get themselves into trouble in carrying out their duties. That now brings a degree of hesitancy into the role of police officers in this State.

Police officers know there are so many avenues for complaints, that there are so many areas where, even without intention, they may make an error—in many cases, almost a technical error—which will cause them to face such complaints. I believe this is a serious matter, and I urge the Government as it reviews legislation affecting police to cut down the red tape, as it is referred to, as it has done in other areas, to review the entire complaint mechanism with regard to police officers in order to simplify it. This will allow police officers to concentrate on doing their duty, rather than having to look over their shoulder to ensure they do not fall into a trap—which, as I said, may be a technical or administrative trap—which affects their ability to carry out their duties.

The bill will improve the capacity of the Ombudsman to report and consult with the Minister for Police and the Commissioner of Police in relation to police complaints. I note the concerns raised by the Leader of the Opposition in relation to some aspects of the bill. The bill amends the Police Act to provide that an acting Commissioner of Police is to be appointed by the Minister rather than by the Governor on the recommendation of the Minister. The Minister for Police, the Hon. David Campbell, made it clear in his agreement in principle speech:

> Such acting appointments would only be for short-term periods, such as when the commissioner is on leave.

I believe that is a perfectly acceptable procedure. Obviously, to involve the Governor in such appointments would entail additional administration and procedures, which is not required or necessary. It is a simple procedure in that limited category such as when the commissioner is on leave. However, to ensure the independence of the Commissioner of Police, it is important that the Governor retain the role of appointing the Commissioner of Police, which is an important function in this State. We support the bill.

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [3.39 p.m.], in reply: I thank honourable members for their contributions to this debate. The report on the Police Act 1990 identified areas in the legislation that needed to be strengthened to improve the administration and efficiency of the New South Wales Police Force. The amendments arising from the review of the Police Act cover a broad spectrum of issues. The bill will provide greater consistency between the Police Act and the employment provisions of the Public Sector Employment and Management Act. With the support of all the police oversight

agencies and the Police Association, the bill provides for a range of minor improvements to Part 8A of the Act which deals with the management of complaints against police officers.

The total package of reforms presented in this bill will make the Police Act a more practical statutory basis for the employment and operational effectiveness of police in this State. The Government supports the continued role of the Ombudsman in the management of complaints made against New South Wales police officers. I acknowledge the comments of the Reverend the Hon. Fred Nile in relation to the Minister, rather than the Governor on the recommendation of the Minister, being able to appoint an acting Commissioner of Police. The amendment will significantly reduce unnecessary bureaucracy in the appointment of an acting commissioner.

Currently, if the Commissioner is away for a period of two weeks, application still has to be made to the Executive Council to appoint an acting commissioner. Both the New South Wales Police Force and the Commissioner of Police support the amendment. There is no public benefit in having the Governor involved in the appointment or termination of an appointment of an acting commissioner. The removal of the Governor from the appointment or removal of an acting commissioner by substantively empowering the Minister to do so brings the process into line with the Public Sector Employment and Management Act. 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.

In Committee

Clauses 1 to 5 agreed to.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [3.46 p.m.]: I move:

No. 1 Page 3, schedule 1 [3]. Insert after line 16:

(3) The Commissioner may not be reappointed under subsection (2) if:

(a) the day on which the Commissioner's term of office would otherwise expire is after the date appointed for the next general election of Members of the Legislative Assembly under section 24A (a) of the *Constitution Act 1902*, and

(b) the proposed date of reappointment is less than 12 months before that election date, and

(c) the term of the proposed reappointment would expire after that election date.

The purpose of this amendment, which relates to section 26 of the Police Act, is to guarantee the independence of the position of Commissioner of Police. It will remove any opportunity for a suggestion of political appointment in the lead-up to an election campaign, and will ensure probity and forward thinking by the Government in relation to the reappointment of a commissioner. A commissioner can be appointed with a five-year contract but there is nothing in the legislation to stop the government of the day bringing forward reappointment well before the expiration of the contract.

The current commissioner's five-year contract will expire in approximately 2012, but there is nothing in the legislation to prevent the Government reappointing the Commissioner some years beforehand. In the lead-up to a State election campaign the government of the day could bring forward the contract of an unpopular commissioner and reappoint, even though the public, the police rank and file, or indeed the Parliament itself, may not agree with such reappointment. The amendment will ensure that the independence of the Commissioner of Police is protected.

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [3.47 p.m.]: The bill provides that section 26 of the Act will be amended to provide that the commissioner or an executive officer may be reappointed with effect before the expiry of the commissioner's or executive officer's term of office. In that case, the commissioner's or the executive officer's term of office will expire. This is similar to section 68 (2) of the Public Sector Employment and Management Act. The Government believes the Opposition amendment

would be an unnecessary restriction for the following reasons. It would be inconsistent with the appointment process for other public sector executives. The Government respects the century-old caretaker conventions that prevent appointments of senior Government officials prior to an election. This unnecessary legislation will only add to the red tape and bureaucracy that this bill intends to cut out of the Police Act 1990 to allow New South Wales police to focus on the job of keeping New South Wales safe.

Unlike other public sector agencies the Government has, however, maintained the role of the Governor and the Executive Council in the substantive appointment of a permanent Commissioner of Police. This ensures the independence of the position both within and outside the organisation. The New South Wales Opposition has not afforded this respect to the Commissioner of Police. Members may remember the former Opposition Leader's promise to unilaterally sack former Commissioner Ken Moroney should they be elected. Members will also recall the former Opposition Leader labelling the former Commissioner of Police a "clown". That same Opposition Leader promised to direct the Commissioner of Police to round up 200 people of Middle Eastern background and "get them arrested and get them locked up". This is not an Opposition that respects the independence of police or indeed respects police at all. The Labor Government is proud to support our police and help them cut away the red tape in their administration. The Opposition's amendment will not help to cut red tape and the Government cannot support it.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [3.49 p.m.]: The main thrust of the Government's opposition to our amendment is based on two arguments. The third argument is just political rhetoric and we can disregard that. As to inconsistency with executive positions across the public sector and the Public Sector Employment and Management Act, the Commissioner of Police is a special position. I cannot think of any other senior executive in the public sector that would be similar to the Commissioner of Police. The Commissioner of Police takes an oath of office from the moment the officer enters the New South Wales Police Force and that oath of office continues throughout the officer's entire career until resignation or retirement from the New South Wales Police Force.

Therefore, the position of Commissioner of Police cannot be compared with any other executive position. Because of the inherent power and authority attached to the Commissioner of Police, the position needs to be continually examined to ensure independence and that there is no impropriety between the Commissioner of Police and the government of the day. We are moving in the right direction. We saw what happened in Queensland some years ago when there was an improper and arguably corrupt relationship between Commissioner Lewis and the government of the day.

The Hon. Eric Roozendaal: A National Party Government.

The Hon. MICHAEL GALLACHER: Unfortunately, the Minister cannot get away from party politics. This amendment relates to all political parties now and in the future. It recognises that the commissioner's position is completely different to other public sector executive positions. It ensures against a political appointment of the Commissioner of Police in the lead-up to an election by way of five-year contracts. It guarantees a level of protection for the commissioner's position. The other argument the Minister raised was red tape. The red tape rests with the government, not rank and file police. The Minister gave the impression that the early reappointment of a Commissioner of Police would affect general duties police at Central or The Rocks. That is rubbish.

A procedure for early appointment of the Commissioner of Police, which must be subject to a level of probity and security, will involve red tape. By virtue of the position, it must be done in a way that negates any suggestion of impropriety. The suggestion that red tape will tie up the Police Force is a ludicrous argument. The Police Force will not be affected at all. If anything, the procedure will ensure that the government of the day goes to extra lengths to ensure that the reappointment is consistent with the needs and wishes of the public. It is far better for the Commissioner of Police to be reappointed in this way than for the Government of the day to be able to reappoint the commissioner on a whim.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 20

Mr Ajaka	Mr Gay	Ms Parker
Mr Clarke	Ms Hale	Mrs Pavey
Mr Cohen	Dr Kaye	Mr Pearce
Ms Cusack	Mr Khan	Ms Rhiannon
Ms Ficarra	Mr Lynn	*Tellers,*
Mr Gallacher	Mr Mason-Cox	Mr Colless
Miss Gardiner	Reverend Dr Moyes	Mr Harwin

Noes, 21

Mr Brown	Reverend Nile	Ms Voltz
Mr Catanzariti	Mr Obeid	Mr West
Mr Costa	Mr Primrose	Ms Westwood
Mr Della Bosca	Ms Robertson	
Ms Griffin	Mr Roozendaal	
Mr Hatzistergos	Ms Sharpe	*Tellers,*
Mr Kelly	Mr Smith	Mr Donnelly
Mr Macdonald	Mr Tsang	Mr Veitch

Question resolved in the negative.

Amendment negatived.

Schedule 1 agreed to.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Eric Roozendaal agreed to:

That the report be adopted.

Report adopted.

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.

QUESTIONS WITHOUT NOTICE

McARTHUR EXPRESS EMPLOYEE BENEFITS

The Hon. MICHAEL GALLACHER: I direct my question to the Minister for Industrial Relations. Does the Minister recall telling the House on 17 October about what he termed the failings of the Federal Government's corporations laws in relation to unpaid McArthur Express owner-drivers? Does the Minister recall saying that the Minister for Employment and Workplace Relations should take immediate action to cover owner-drivers under the General Employment Entitlements and Redundancy Scheme? Given that statement, will the Minister now inform the House what commitments he has from Kevin Rudd regarding when former

McArthur Express owner-drivers will receive their unpaid wages and benefits, and what proposals he has to prevent this situation from occurring again?

The Hon. JOHN DELLA BOSCA: The Leader of the Opposition is referring, of course, to the collapse of trucking company McArthur Express in September, which left its employees and the owner-drivers who worked for the company short of their entitlements. After some huffing and puffing by the then Minister for Employment and Workplace Relations, Mr Hockey, the McArthur Express employees had their entitlements paid out through the Federal Government's General Employment Entitlements and Redundancy Scheme. Unfortunately, that does not help the owner-drivers, to whom he refers. I do not recall the specifics of my comments on l7 October.

The Hon. Michael Gallacher: I can give you a copy of them; I have them here.

The Hon. JOHN DELLA BOSCA: I am happy to take the member's word for what I said. Indeed, I expect I would have said that. Mr Hockey should have acted at that time so that McArthur Express drivers would be in the position they should be at now in knowing about their entitlements. The Leader of the Opposition has asked the extraordinary question that I should have obtained by now a commitment from the new Prime Minister in relation to McArthur Express. Obviously, the member would know it would be extraordinary for me to have rung up the Prime Minister and asked him about this. Even though it is a very important matter, the Prime Minister clearly has many things to deal with at the moment, as he has had since the start of the election campaign, and so has his Deputy Prime Minister, Julia Gillard, who will be the Minister for Industrial Relations. I am sure the McArthur Express workers will take up this issue with her and they will get a much more sympathetic hearing and more justice than they did under the Howard regime.

WORKPLACE RELATIONS

The Hon. PENNY SHARPE: My question is directed to the Minister for Industrial Relations. Will the Minister inform the House about any plans the Iemma Government has to improve the workplace conditions for working families in New South Wales?

The Hon. JOHN DELLA BOSCA: In 2004 on polling night for the Federal campaign, I recall having had the pleasure of being a commentator on one of our premier radio stations with one of our premier radio commentators. This year I believe the Hon. Eric Roozendaal performed that function and I listened with great interest. In 2004, about halfway through the call when it became apparent that the Howard Government would take control of the Senate, on air I told my co-commentators, Alan Jones and Bronwyn Bishop, that this would mean the end of the Howard Government. At the time it was probably the only comfort I could get from the rather disappointing result at that time.

I predicted the Howard Government would not be able to help itself and would arrogantly abuse its new unbridled power in the Senate, and the area in which I expected it to make its move and express its arrogance would be in the area of industrial relations. Then the sabre rattling started. In 2005, WorkChoices was introduced. Before and since the Commonwealth Government introduced WorkChoices, I have answered questions in this Chamber from the Opposition, from the crossbench and from the Government about these laws. Almost every day in this Chamber I have taken the opportunity to point out the political problems, apart from anything else, that were created for the Commonwealth Government by the WorkChoices laws. I have warned members opposite about the unfairness of these laws and how they would bring about the demise of the Howard Government. And what did I get for my troubles in warning them?

Any member could have gone to his or her room and rung the Prime Minister. Opposition members had two years in which to ring John Howard and tell him of my warnings. The Opposition expects me to have rung Kevin Rudd about the McArthur Express issue within two days, but members opposite could have rung John Howard, Joe Hockey and Kevin Andrews any time in the past two years. They could have said, "Della Bosca is down in the Chamber and he has just explained to us the problems with WorkChoices. He says that no-one gets away with doing this to working people." John Howard did not get away with doing it and the Liberal Party has not got away with doing it.

Despite all the evidence of how bad WorkChoices was going for Australian families businesses and workers—and, indeed, how bad it was for John Howard, Peter Costello and Joe Hockey—the former Federal Government continued to arrogantly disregard what was wrong with WorkChoices because of its ideological obsessions. May I remind Opposition members, the New South Wales Coalition supported WorkChoices laws.

Back in March 2007, the then Leader of the Opposition Peter Debnam, as part of his election platform, declared he would hand over the New South Wales industrial relations system to the Commonwealth—and remember what happened on 24 March.

Just like its Federal counterparts, the New South Wales Coalition has proved itself hopelessly out of touch with the challenges faced by working families. Not once did the Liberals or Nationals, including members opposite, condemn or speak out about the WorkChoices laws covering overtime, weekends and holidays—laws that buried businesses in an ocean of red tape. Despite all the evidence, the Coalition and its Federal colleagues stayed silent or actively supported the Howard attack on Australian families. They chose to ignore the radar and steer a course directly towards an imposing iceberg—the WorkChoices laws.

That evidence kept emerging from the Australia@Work report, which found WorkChoices had reduced wages, and the Employer Greenfields Agreements under WorkChoices Report, which found that 79 per cent of agreements removed all protected award conditions, in spite of the promises made repeatedly by John Howard, Kevin Andrews and Joe Hockey. Breathtakingly, despite the mandate the Australian people have given Kevin Rudd to dismantle WorkChoices, Nick Minchin says he is thinking about blocking it in the Senate. This is the opportunity for members opposite to finally make a stand for the working families of New South Wales. They should do it now during this question time: they should ring Nick Minchin and tell him he cannot possibly be that silly.

The Hon. Michael Gallacher: I do not know his new number.

The Hon. JOHN DELLA BOSCA: The Leader of the Opposition has his mobile phone number. [*Time expired*.]

FEDERAL ROADS FUNDING

The Hon. DUNCAN GAY: My question is directed to the Minister for Roads. Does the Minister recall repeatedly refusing to table a breakdown of State and Federally funded roads projects for 2007-08 in the budget estimates hearings on Friday 26 October? Is the Minister aware that nowhere in the budget papers does this Government disclose that several so-called jointly funded projects, such as the $30-million duplication of the Pacific Highway between Coopernook and Moreland, are in fact to be funded in full by the Federal Government? Why has the Minister told the people of New South Wales that his Government is spending a record amount on roads when it is clear that he has failed to disclose that a large amount is federally funded? Can the Minister explain to the House how this is not deception?

The Hon. ERIC ROOZENDAAL: We have a record roads budget thanks to the hard work of the Hon. Michael Costa. The roads budget is $3.6 billion this financial year. It is interesting to note after the events of the weekend the dissection—

[*Interruption*]

Has the honourable member checked with the most senior Nationals public office holder in this State? We know that The Nationals' most senior public office holder is now the Mayor of Dubbo, Mr Greg Matthews. Has the Deputy Leader of the Opposition checked with his boss? This is a classic. They got smashed on election night because of the bumbling—

The Hon. Duncan Gay: Point of order: The question was quite specific and the Minister has moved well off the topic. Mr President, I request you bring him back to answer why he has deceived the people of New South Wales.

The PRESIDENT: Order! I ask the Minister to be generally relevant.

The Hon. ERIC ROOZENDAAL: Interestingly, I was today looking at the Federal election results and I thought I might see how the Minister for Local Government, Territories and Roads went.

The Hon. Duncan Gay: Point of order: Mr President, the Minister is disregarding your recommendation. I request that you draw him back to answering the question and being relevant.

The PRESIDENT: Order! I ask the Minister to be generally relevant.

The Hon. ERIC ROOZENDAAL: Honourable members are well aware that the former Federal Government cut funding for highway maintenance and refused to match funding for a number of joint projects when the price went up due to cost increases during construction. Of course, the person who steered this policy was the former Federal Minister for Local Government, Territories and Roads. I believe it was Mr Jim Lloyd. I made some reflections on him in the past, and I was proved correct. However, I note that the people of Robertson—

The Hon. Duncan Gay: Point of order: The question is not about the former Federal Minister for Local Government, Territories and Roads, Mr Lloyd; the question is about how this Minister can live with the fact that he has deceived the people New South Wales by claiming Federal funding to be his own money.

The PRESIDENT: Order! The Minister has been asked a question relating to Federal funding. Consequently, it is in order that he refers to issues relating to the Federal Government, both current and former.

The Hon. ERIC ROOZENDAAL: The body is still warm and they are trying to cover it. The former Federal Minister for Local Government, Territories and Roads, and former member for Robertson, was defeated by Belinda Neal, who conducted a sterling campaign. I was in the electorate last week talking with locals, Belinda Neal, Marie Andrews and others and I could sense the anger of people on Central Coast because of the Federal Government's attitude to road funding in this State. I did some research and I checked what happened in Crookwell—the home of the genius sitting opposite. [*Time expired.*]

CLIMATE CHANGE

The Hon. ROBERT BROWN: My question is directed to the Minister for Lands representing the Minister for Climate Change, Environment and Water. Is the Minister aware of the study released yesterday by the Australian Local Government Association that found rural Australians—that is, our farmers and people living outside major coastal cities—will pay twice as much as city dwellers to meet the estimated $17 billion cost of dealing with climate change in Australia? Is it a fact that the study found average weekly costs to rural households will be $60 compared with $32 for city families? Does the Minister agree with the study findings that the cost of climate change will fall disproportionately on the regions that can least afford it? What will the New South Wales Government do to ensure that rural New South Wales is not unfairly impacted by initiatives designed to meet climate change demands?

The Hon. TONY KELLY: I thank the member for his detailed, concise and good question. I will pass it to the Minister concerned and get a swift and accurate response.

GENE TECHNOLOGY ACT REVIEW

The Hon. MICHAEL VEITCH: My question is directed to the Minister for Primary Industries. Will the Minister update the House on the findings of the recent review of the Gene Technology Act 2003?

The Hon. IAN MACDONALD: I gave notice today that the relevant legislation will be introduced tomorrow. The Government has received a report from the Hon. Ian Armstrong, the former leader of The Nationals and a former Minister for Agriculture. He and a panel conducted extensive consultations across New South Wales, received well over 1,300 submissions and held more than 30 meetings with various stakeholders on this issue.

The Hon. Duncan Gay: He did not meet with me.

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition is no longer a stakeholder; he is meant to be interested in roads these days. The Hon. Ian Armstrong supported some of the Deputy Leader of the Opposition's behaviour in 2003. The Hon. Ian Armstrong produced a detailed, moderate and well thought out report, which the Government has had the benefit of being able to consider in its deliberations about gene technology. As I said, the Government will introduce the bill tomorrow and in essence has adopted most of the recommendations in the Armstrong review. The report is similar to the report produced by Victorian Chief Scientist Sir Gustav Nossal. Premier Mr John Brumby announced at 2.00 p.m. today that Victoria would end its moratorium on canola crops and that a consideration process would be implemented for other crops recommended for commercial release by the Office of the Gene Technology Regulator. As I made clear today, this State's position is slightly different from the Victorian position; it is closer to that adopted by other jurisdictions.

The Hon. Duncan Gay: Point of order: Mr President, I would like some advice from you on two levels. The Minister introduced legislation on this issue and I am looking for your advice on the appropriateness of a question on legislation that is before the House. I also believe that the Minister is announcing a new subject and it is very much a ministerial statement, which would indicate that the Opposition spokesman should be given an opportunity to reply.

The PRESIDENT: Order! First, although the Minister gave notice today that he intended to introduce such legislation, the matter is not yet formally on the *Notice Paper*. As a consequence, as has been ruled on a number of occasions, the rule relating to anticipation of debate does not apply. Second, the question did not refer to the giving of notice by the Minister and did not seek an announcement of policy. Accordingly, the Minister may answer as he wishes. His time for doing so, however, has expired.

PERPETUAL LEASE CONVERSION

Mr IAN COHEN: I direct my question to the Minister for Lands. Now that the Minister has agreed in the lands budget estimates hearing that 160 leases with identified wilderness on them are subject to the conversion process, does he acknowledge that they encompass approximately 72,000 hectares of identified wilderness? Will he commit to retaining these areas in public ownership, as is obviously warranted by their outstanding natural values?

The Hon. TONY KELLY: I do not have available in front of me those figures, but obviously the member had them at the estimates hearings. I presume the member is talking about the perpetual lease conversions. We have already converted about 4,000 perpetual leases out of some 10,700. The former Coalition Government put a moratorium on some 3,000 of those but that was when there was no native vegetation legislation or threatened species legislation that protects values on all land regardless of whether it is Crown land or private land. We agreed to review all of those because, in the light of that new legislation, some of that moratorium may not need to be kept.

At the time that this was announced the former Treasurer allocated funding in the order of $13 million to buy perpetual leases of land from people who had leases that had intrinsic environmental value. We are still going through that process. A number of those blocks of land may be purchased. Another number of blocks may have covenants put on them and may still be sold and some others will not be sold. Honourable members have to realise that these leases are perpetual leases. Unlike the leases in the Australian Capital Territory, where every block of land is on a 99-year lease—it is all Crown land, even the airport—10,700 people in New South Wales have perpetual leases. They are longer than 99 years, they are forever and beyond. Effectively, they have close to freehold value now.

The Hon. Duncan Gay: They are 99 years in perpetuity.

The Hon. TONY KELLY: Yes, and then again. Remember, not only did they have that length of time but many of these perpetual leases also had a written-in purchase price. The ability is not with the Government to decide whether to purchase them; it is with the perpetual leaseholders. At any stage they could decide whether they want to purchase for the value inside it. Remember also most of these were purchased from somebody else at near freehold value. We asked KPMG to ascertain how much affected value was retained by the Crown, and they said somewhere between 2 per cent and 4 per cent. We agreed, and the Hon. Michael Egan introduced the legislation when he was Treasurer in 2004. That is how long this has been going on.

The House agreed to pass the legislation to sell those perpetual lease blocks of land at 3 per cent, provided they did not have strong environmental values. That process is going forward. As I said, 10,700 people have perpetual leases. More than 7,400 purchase applications have been received. We have converted almost 3,900, or approved their conversion—that is some 455,000 hectares, almost $16.5 million. The remaining 3,500 applications are at various stages in the process, and we have created a dozen new jobs to process these applications in a robust manner. Claims by the National Parks Association that the conversion of perpetual leases will compromise environmental values and that the cost of compliance are too high are incorrect. [*Time expired.*]

AUSTRALIAN ACCOUNTING STANDARDS

The Hon. GREG PEARCE: I direct my question to the Treasurer. It is an important question. I have decided to give him another go. Will the Treasurer inform the House of the impact of the change in Australian

accounting standards required from 1 July 2008 in relation to the harmonisation of government financial reporting and generally accepted accounting principles? In particular, will the 2008-09 budget be prepared in accordance with the new standards? Will the budget reporting continue to provide data comparable to the current year budget, and will the budget result be reported in the same manner?

The Hon. MICHAEL COSTA: It would be a good question except that we have already reported in this year's budget that we are harmonising and progressively introducing the harmonisation of general accounting standards on a whole-of-government basis across the nation. A process that involves all the heads of Treasury controls the standards, and clearly, the Australian Bureau of Statistics is involved in that process. We will conform to the standards. They will be implemented over a period of time. The standards will not be implemented in one go. They will lead to—I will not say distortions—accounting difficulties in trying to relate previous year's budgets with current year budgets. The Government is committed to transparency in these areas and it will continue to meet the accounting requirements as determined.

The Hon. Greg Pearce: What about the budget result?

The Hon. MICHAEL COSTA: The budget result will be on the same basis as it currently is, which is in accordance with the new general government accounting standards.

RURAL AND REGIONAL DEVELOPMENT

The Hon. CHRISTINE ROBERTSON: I address my question to the Minister for Rural Affairs, and Minister for Regional Development. Will the Minister outline the benefits of the Rudd Labor Government's election for rural and regional Australia?

The Hon. TONY KELLY: I predict that 24 November 2007 will go down as the day that the sun finally set on The Nationals and rose for rural and regional Australia. As the headline from the *Sydney Morning Herald* online so eloquently put it, "… Nationals' fortunes at lowest ebb." The *Daily Telegraph* said, "… Nationals support shrinks yet again." The *Sydney Morning Herald* stated:

> The Nationals have recorded their worst-ever election result and dropped to just 10 seats in the House of Representatives.
>
> For the fifth election in a row, the Nationals have lost seats …

The tide is running out for The Nationals and country people know it. In Kevin Rudd, rural and regional Australia will have a leader of true vision, leading a government that has strong plans for the future for all Australians, not just policies that pit city against country. Instead, Kevin Rudd has strong plans on broadband to bridge the digital divide, strong plans on roads and regional development to breathe new life into our communities and, of course, strong plans to deliver fairness in our workplaces for all Australians. I want to remind the House in particular of Labor's plan for a national high-speed broadband network.

This piece of visionary policy will see $4.7 billion spent upgrading Australia's broadband capacity to world standard. This not only will bridge the digital divide between city and country but, critically, will also give regional Australia access to a whole host of opportunities for business and employment. During the campaign the shadow Minister for Trade and Regional Development, Simon Crean, released the regional policy, Regional Development for a Sustainable Future. This comprehensive policy deals with the major policy challenges facing regional Australia including better infrastructure and services for regional Australia, natural resource management and climate change, and addressing skills shortages, just to mention a few.

Critically, this policy will take regional development in a completely new direction, for all of rural and regional Australia. This is not just a piecemeal policy based on a quick political fix for marginal seats. No doubt many members have read about the Federal Auditor-General's report into the Regional Partnerships Program. The report lays out in astonishing detail the abuse of taxpayers' funds for blatant pork barrelling by The Nationals. They had a plan to try to buy their re-election. Labor has a plan to ensure the long-term future for regional Australia.

I welcome Federal Labor's policy to establish Regional Development Australia and give it real power to affect the lives of regional communities. The role of Regional Development Australia will be to develop strategic regional plans in close consultation with the local community, support local projects in line with their plans, identify infrastructure needs in their regions, and liaise across government about the needs of regional communities.

The Nationals stand on a precipice. Their choice is to remain hand-in-hand with the Liberal Party and take one more step into oblivion or to break from the Coalition and finally stand up for country people. I urge members of The Nationals opposite to listen to the message that came from rural and regional Australia last weekend, a message that is being repeated in their own senior ranks: break from the Coalition for the good of country New South Wales; ignore it at your peril.

The Hon. Duncan Gay: You didn't even write this.

The Hon. TONY KELLY: That comment was from the member from Crookwell, where there was a 5.7 swing against the Coalition.

The Hon. Duncan Gay: Point of order: Mr President—

The PRESIDENT: Order! The Minister's time for speaking has expired.

The Hon. CHRISTINE ROBERTSON: I ask a supplementary question. Can the Minister further elucidate his answer?

The Hon. TONY KELLY: I will be brief. I am giving The Nationals an invitation to put "country" back into their party name: join Country Labor!

KILLALEA STATE PARK

Ms SYLVIA HALE: I address my question to the Minister for Lands. Is the Minister aware of reports in today's *Illawarra Mercury* that the newly elected Federal member for Throsby, Ms Jenny George, has promised to seek Federal assistance to keep Killalea in public ownership? Will the Minister undertake to provide assistance from the State Government to match any Federal funding to ensure that no part of Killalea State Park needs to be leased to the private sector for an upmarket resort?

The Hon. TONY KELLY: I have not read the particular newspaper report but if, as the member said, the Greens are trying to keep Killalea in public ownership, I advise her that that is exactly what the Government plans to do. We plan to lease about 1 per cent of the area, but it will all remain in public ownership.

CASINO TO MURWILLUMBAH RAIL LINE

The Hon. CATHERINE CUSACK: My question without notice is directed to the Treasurer. Given the Treasurer's repeated claims that it was a Howard Government funding shortfall that led to the closure of the Casino to Murwillumbah rail line, what date can we now look forward to seeing the rehabilitation work commencing to restore the track and when will services on the line be resumed?

The Hon. MICHAEL COSTA: Clearly the member is trying to verbal me. I have never said it was the Howard Government. It was the New South Wales Government's decision to close the Casino to Murwillumbah line; it was not the Howard Government.

The Hon. Michael Gallacher: That's good.

The Hon. MICHAEL COSTA: The Howard Government was not prepared to put up the funds to reopen the line. Let us get that right. I heard the Leader of the Opposition say, "That's good." I remind him of what happened in the recent Federal election on the North Coast, where we saw a general 6.7 per cent swing to Labor. The seat of Lyne had a swing of 5.1 per cent swing to Labor; the seat of Cowper had a 5.8 per swing to Labor; the seat of Page had a 7.9 per cent swing to Labor; and the seat of Richmond had a 8 per cent swing to Labor. The public has made up its mind about the Opposition and the Howard Government. They rejected the Howard Government comprehensively and they have rejected the Hon. Catherine Cusack. She has shown that she is incompetent to run an election campaign in that area. More importantly, for the first time we are in the position of having a national government that has the interests of the public of New South Wales at heart. It will not be playing politics like the Howard Government did over the past 11 years. For all that time the Howard Government played politics—

The Hon. Duncan Gay: You will now have no-one to blame.

The Hon. MICHAEL COSTA: We don't need anyone to blame.

The Hon. Duncan Gay: It's your worst nightmare.

The Hon. MICHAEL COSTA: If the Deputy Leader of the Opposition thinks that our worst nightmare is Labor being in government everywhere, I wonder what his worst nightmare is.

The Hon. Catherine Cusack: Point of order: I ask you to bring the Treasurer back to the question, particularly in view of the statements of all Labor candidates on the North Coast, both State and Federal, in support of reopening the branch lane. When is the branch line going to be reopened? When will services be resumed?

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

The Hon. MICHAEL COSTA: Amazingly, the Hon. Catherine Cusack was given the responsibility to take up this particular issue on the North Coast and run it as a great election-winning issue. Unfortunately, however, if the Coalition did not lose every seat, it suffered a massive swing against it. If members opposite believe our worst nightmare is having a Rudd Federal Labor Government, what is their worst nightmare? Being in opposition!

The Hon. Duncan Gay: You.

The Hon. MICHAEL COSTA: Yes, I am their worst nightmare. And I have to thank the Opposition for my new mandate. I am the only politician in the country to now have a State and Federal mandate, and for that I thank the Opposition.

The Hon. Michael Gallacher: No, you and Reba Meagher.

The Hon. MICHAEL COSTA: No, she does not have a State mandate. I have a State and Federal mandate because of the dopes opposite and I hope the trend continues at the local government elections next year, when I am sure we will again clean out the Coalition. Soon there will be no Liberals and no Nationals anywhere in the country. And our worst nightmare is having Labor governments at all tiers! What an extraordinary statement.

The Hon. Michael Gallacher: Tiers. Your party has never had tiers.

The Hon. MICHAEL COSTA: Don't you start!

The Hon. Michael Gallacher: Listen, you tell us about Metford. Tell us about when you were kicked off the Metford booth. You were asked to leave by the returning officer.

The Hon. MICHAEL COSTA: I was not.

The Hon. Michael Gallacher: You were. You were fighting with the Greens

The Hon. MICHAEL COSTA: I was fighting with the Greens all right— [*Time expired*.]

JUSTICELINK

The Hon. KAYEE GRIFFIN: My question is directed to the Attorney General. What is the latest information on the implementation of JusticeLink in the State's courts?

The Hon. JOHN HATZISTERGOS: JusticeLink is a revolutionary computer network that will securely link all major courts in New South Wales allowing a range of court procedures to be conducted online. The Supreme Court of New South Wales is the first jurisdiction to connect to this revolutionary computer network. The Supreme Court registry has begun using JusticeLink to process criminal matters, with the Local Court and District Court soon to follow.

Judges associates are now able to enter Supreme Court results directly into the JusticeLink system while still in the courtroom, minimising the risk of error. This will progressively create a more efficient system,

cutting duplication, enabling other justice agencies to be properly notified of court outcomes. The District Court will shortly begin using JusticeLink to process criminal cases, and by the end of next year JusticeLink is expected to be operating in all criminal and civil courts. The implementation process is being conducted over several stages, minimising the impact on sittings.

Once completed it will be a significant milestone in the evolution of court case management, dramatically reducing the justice system's reliance on paper copies of documents. This streamlined system will greatly assist in the handling of serious criminal cases in New South Wales, cases that often pass through more than one court before being finalised. It will enable electronic case files to be transferred safely and seamlessly from the Local Court to the higher jurisdictions of the District Court or Supreme Court.

JusticeLink is one of the most advanced systems of its kind. It will enhance the efficiency of the justice system and save taxpayers millions of dollars, with virtually all of the State's court case files to be stored on one secure network. Containing over one million lines of program code, the JusticeLink software application has been developed to the highest standards by the Australian technology services company KAZ group, a subsidiary of Telstra.

The program has been designed to be adaptable to future changes to the law. JusticeLink will also make services available electronically to the legal profession and the community without the need to physically attend court. A number of law firms are already using JusticeLink to file and certify court documents electronically, and more than 7,500 documents have been filed online over the past two years. JusticeLink's online court program is being trialled in the corporations and possessions lists of the Supreme Court. This program enables judges to hear non-controversial procedural matters online instead of in a courtroom.

I am advised that JusticeLink is due for completion next year and that the JusticeLink products delivered by KAZ are all operating to the highest standards, far superior to the ones specified in the original contract. While complications in the early stages of the project caused some delays, KAZ has achieved several important milestones in the implementation of JusticeLink. A steering committee comprising key stakeholders, including judges and magistrates, meets once a month and the project is regularly reviewed by internal auditors. I reiterate that JusticeLink will enhance the efficiency of the justice system and save taxpayers millions of dollars.

DESALINATION PLANT WATER UNIT COST

Dr JOHN KAYE: My question is directed to the Minister for Primary Industries, representing the Minister for Water Utilities. Can the Minister clarify the following statement on ABC television's *Stateline* on 21 September 2007 by Dr Kerry Schott, the Chief Executive of Sydney Water:

> The cost of water from the desal plant works out at 60 cents a kilolitre. And that compares to what I'm currently paying the catchment authority which is 56 cents a kilolitre.

In particular, is this not a case of attempting to compare non-commensurate measures of unit cost? Is it not true that the Sydney Catchment Authority unit costs of water include a component to recover capital and fixed costs, while the quoted 60¢ per kilolitre desalination plant water unit costs are only the operational costs as the capital costs are dealt with through another mechanism? Should the comparative figure for desalination be more like $2.55 per kilolitre, rather than 60¢ per kilolitre?

The Hon. IAN MACDONALD: I did not have an opportunity to see the program to which the member referred. It is a detailed question, and I will refer it to the appropriate Minister for a reply.

WATER CHARGES

The Hon. MARIE FICARRA: My question without notice is directed to the Treasurer. How can he justify raising annual water charges by $275 per household given that the Government has taken more than $1.2 billion in dividends from Sydney Water over the past decade, specifically $193 million last year and a budgeted $140 million this financial year? As New South Wales Treasurer, how does he justify having an agency debt of $3.3 billion for Sydney Water that will incur an interest payment of $180 million this year? How does the Treasurer plan to contain the final cost of construction and operation of the desalination plant pipeline, given that it has doubled to $750 million in less than one year? Can the Treasurer guarantee that Sydney families will not continue paying— [*Time expired.*]

The Hon. MICHAEL COSTA: Obviously, as the member's time expired I did not get the end of the question so I do not know what I am required to answer. But I can provide these remarks in response to the Hon. Marie Ficarra. We have a body called the IPART [Independent Pricing and Regulatory Tribunal], which was set up by the Greiner Government, that determines water charges—

The Hon. Duncan Gay: It's not IPART—it's PART. It's not independent at all.

The Hon. MICHAEL COSTA: That might be your view. A body called the Independent Pricing and Regulatory Tribunal determines water charges and other government charges. Clearly, those deliberations involve not only public submissions but also the consideration of the tribunal's commissioners relating to operating costs and capital costs, which were referred to in a question asked earlier by the Greens. In relation to the dividend, the Opposition seems to have a short memory. I am surprised that the Hon. Marie Ficarra should ask such a question, because I think she was a member of the lower House when the Greiner Government—

The Hon. Marie Ficarra: Only very briefly.

The Hon. MICHAEL COSTA: Only very briefly—that might be the point.

The Hon. Marie Ficarra: Wrong again!

The Hon. MICHAEL COSTA: You were not a member of the Greiner Government? I will apologise, if you were not.

The Hon. Marie Ficarra: It wasn't Greiner.

The Hon. MICHAEL COSTA: It wasn't Greiner? Was it Fahey?

The Hon. Marie Ficarra: No, it wasn't Fahey.

The Hon. MICHAEL COSTA: Well, there was only Greiner and Fahey.

The Hon. Marie Ficarra: Answer the question!

The Hon. MICHAEL COSTA: I apologise if the information I was given is incorrect. However, the policy on dividends was introduced by the Greiner Government, and the reason that Government introduced a policy on dividends is that it constitutes basic commercial practice. Whenever a government tries to measure capital allocation and the efficiency of its capital, it applies a charge to the assets via a dividend. It is a sensible policy that we inherited and we will continue to apply it.

CENTRAL COAST ROADS

TIMBER BRIDGES PARTNERSHIP

The Hon. LYNDA VOLTZ: My question is addressed to the Minister for Roads. Can the Minister update the House on the Government's continuing commitment to Central Coast roads?

The Hon. ERIC ROOZENDAAL: I thank the Hon. Lynda Voltz for her interest in this matter. Last week I visited the Central Coast to announce a display of preferred options for the upgrade of the intersection of Masons Parade and Dane Drive at Gosford. I made that announcement together with the hardworking member for Gosford, Marie Andrews, and the candidate—now the member—for the Federal seat of Robertson, Belinda Neal.

The Hon. Michael Gallacher: Point of order: The Minister is misleading the House. The results in Robertson have not yet been declared but he has just indicated that they have.

The PRESIDENT: Order! There is no point of order. The Minister may continue.

The Hon. ERIC ROOZENDAAL: I extend my congratulations to Ms Neal on running an outstanding campaign against the outgoing Federal roads Minister, Jim Lloyd. Her win and Labor's win in the nearby Federal seat of Dobell is a clear indication that communities on the Central Coast were tired of being taken for

granted by the Federal Coalition Government. The Iemma Labor Government is delivering on its commitment to upgrade and invest in Central Coast roads, with $79.5 million being invested this year and more to come.

The upgrade of the Masons Parade and Dane Drive intersection is an important part of the New South Wales Government's commitment to improving the Central Coast road network. The intersection is a key link for road users accessing Gosford's central business district, Erina, West Gosford and the F3. About 40,000 vehicles use the intersection daily. The upgrade is about improving traffic flow and safety, and includes the construction of additional and improved turning lanes. I am advised that the revised design incorporates changes identified during community consultation when the original concept was displayed.

Having the preferred design now on display will provide the community with important information about this vital link. The upgrade will provide reconfigured bus priority arrangements for buses travelling north into Gosford, while providing two dedicated left-turn lanes from Masons Parade into Dane Drive. In addition, the pedestrian crossing near the Gosford City Swimming Pool will be relocated to align with the reconstructed bus bays, enabling buses to stop safely without interrupting the flow of traffic and provide safer access for passengers. Both the entry and exit from the boat ramp car park have been redesigned to improve safety for vehicles with trailers. I am advised that a display with a plan of the upgrade is available until 14 December 2007.

While in Gosford I also announced that six timber bridges in the Gosford local government area would be upgraded with $1.5 million, to be matched by council, under the Iemma Labor Government's Timber Bridges Partnership. The Iemma Labor Government is delivering on its $60 million commitment to repair and upgrade timber bridges around New South Wales. The $1.5 million will fund works on six timber bridges on Wisemans Ferry Road, Gosford, at Cohens Creek, Bedlam Creek, Scotchmans Creek, Mill Creek, an unnamed creek at Popran, and an unnamed creek 5.25 kilometres south of Oyster Shell Road, Spencer.

The new set of bridges comes on top of 121 bridges already set to be upgraded around New South Wales under the Timber Bridges Partnerships program. This is about improving infrastructure and road safety for local motorists. Timber bridges are vital pieces of infrastructure for regional communities. The Timber Bridges Partnership will help keep local families connected while improving safety and reducing maintenance costs for council. I commend it to the House.

INTERNET CAFES AND CYBER-BASED PAEDOPHILIA

Reverend the Hon. Dr GORDON MOYES: I ask the Minister for Education and Training, representing the Minister for Youth, the following question without notice. Is the Minister aware that students who truant school are facing increasing danger from cyber paedophiles and that there is a growing trend of truants flocking to Internet cafes? Is the Minister aware that many truants are also accessing porn sites and other disturbing material in Internet cafes that would alarm parents? Can the Minister confirm that many Internet cafes also escape obligations in restricting inappropriate Internet content because the regulations do not cover all operators? In particular, can the Minister indicate what tougher guidelines will be implemented to ensure that children using Internet cafes are safe from crimes such as cyber-based paedophilia?

The Hon. JOHN DELLA BOSCA: I thank the member for his question, which I will refer to the Minister for an expeditious reply.

FORKLIFT AND TELEHANDLER REGISTRATION

The Hon. RICK COLLESS: My question without notice is directed to the Minister for Roads. Is the Minister aware that the registration for forklifts and tele-handlers to operate on public roads has been revoked? Are you further aware that this revocation is now creating traffic congestion and danger in regional centres where trucks need to be unloaded in busy streets, also exposing forklift operators to a greater risk of injury during the loading and unloading processes? Will you reinstate the registration provisions for forklifts and tele-handlers in regional areas of New South Wales?

The Hon. ERIC ROOZENDAAL: I am advised there has been no change to the registration of forklifts or tele-handlers. Both forklifts and tele-handlers can be registered under the conditional registration scheme. Strict conditions of operation are applied to the registration of those vehicles to protect the safety of all road users. Forklifts and tele-handlers are special-purpose vehicles designed to load and unload goods. They are not designed or constructed to transport goods on roads. Conditions are therefore applied to the registration of

those vehicles. The conditions allow limited road access such as to the streets adjacent to worksites for loading and unloading. Additional road access may be approved where it is safe to do so.

TAFE NEW SOUTH WALES AWARDS PERFORMANCE

AUSTRALIAN TRAINING AWARDS

WORLDSKILLS COMPETITION

The Hon. AMANDA FAZIO: My question is addressed to the Minister for Education and Training. Can the Minister inform the House how TAFE New South Wales performed at the recent Australian Training Awards and also at the WorldSkills Competition in Japan?

The Hon. JOHN DELLA BOSCA: TAFE New South Wales has excelled at both these events. The Australian Training Awards recognise Australia's top training providers, students, teachers and businesses for their achievements in the training sector. Competing against training providers from every State and Territory in the country, TAFE New South Wales Western Institute was named the Australian Large Training Provider of the Year. The title adds to the Western Institute's already significant record as the New South Wales Large Training Provider of the Year for 2006 and its success in the TAFE New South Wales Gili Awards, recognising its commitment to the Aboriginal people of New South Wales.

In serving some of Australia's most remote communities, the Western Institute covers more than half of New South Wales with 24 campuses and over 60 associated centres. In providing service to these students the institute has pioneered innovative and flexible teaching methods and has partnered with a host of industry and community organisations to meet the needs of each community. The institute is also one of the largest providers of vocational education to Aboriginal people, who constitute 15 per cent of enrolments. One of the students, Shilo Barker from Dubbo, was named the Aboriginal and Torres Strait Islander of the Year. Shilo completed the Diploma of Community Welfare Work with the Western Institute last year. She credits her TAFE studies with building her confidence and equipping her not only for full-time work but also to be a role model to her family and community. Tania Roberts from Broken Hill, who completed the Diploma of Information Technology with the Western Institute, was recognised as runner-up for the Vocational Student of the Year award. A TAFE New South Wales teacher was also judged the best trade teacher in Australia. Marion Fitzpatrick, a commercial cookery teacher from the Northern Sydney Institute, won the inaugural Institute of Trade Skills Excellence Teacher of the Year Award.

TAFE New South Wales quality training has also been recognised at the thirty-ninth WorldSkills Competition, held in Japan. All 11 TAFE New South Wales trained competitors performed with distinction and were awarded medals of excellence. This month our national team, the Skillaroos, competed in 24 skill categories representing most of the traditional trade skills against 850 competitors from 48 countries. Each category of competition results in a first, second and third placing. John Rudge from the Western Institute was awarded a silver medal in electrical installations and he now plans to complete a Diploma in Electrotechnology using the New South Wales Minister for Education's Scholarship, which was awarded to him for his success at last year's National WorldSkills Competition. Suwanna Rattan-Anikom from the Northern Sydney Institute won a bronze medal in cooking. This is a fantastic result for TAFE New South Wales and for Australia, which moves up to fifth in the world from its previous ranking of ninth.

Behind each of our successful competitors is a team of teachers and support staff. Some of these were selected as world skills experts and attended the WorldSkills Competition in Japan as judges. The results speak loudly about the extraordinary talent, commitment and brilliance of these TAFE New South Wales personnel. I offer my congratulations on their success and thank them for demonstrating what can be achieved through quality training. These results represent significant achievements, not just by the individuals directly participating in these events but also by the entire TAFE New South Wales system, which supports these students. TAFE New South Wales is the public sector provider of quality vocational education in New South Wales and is the largest training provider in the country.

GOODS AND SERVICES TAX REVENUE DISTRIBUTION

Reverend the Hon. FRED NILE: My question without notice is directed to the Treasurer. Is it a fact that New South Wales does not receive its full GST payment commensurate with the size of the population who

pay the GST? What urgent steps are you taking with the new Rudd-Gillard Federal Government to ensure New South Wales receives a just and equitable proportion of GST income?

The Hon. Melinda Pavey: Remember: no gloating.

The Hon. MICHAEL COSTA: I am not gloating at all, but I can say that I have spoken to Wayne Swan, the incoming Federal Treasurer, who has indicated that as a first priority he will sit down with me as New South Wales Treasurer to discuss funding to the States. As we know over the last 11 years New South Wales has been well and truly—and an appropriate word that comes to mind starts with an "S", but I won't use it—disadvantaged by the Federal Government.

The Hon. Duncan Gay: Supported?

The Hon. MICHAEL COSTA: No. If the member wants to know, as well as an "S" the word also has a "C" and an "R" and an "E" and a "W" in it. New South Wales has been disadvantaged because of underfunding by the former Federal Government. That disadvantage has taken two forms. The first is the issue of GST per capita grants. The second is that a significant amount of funding to the States is received on a bilateral basis, for example relating to health care and housing agreements. In fact just before the last Federal election the Commonwealth advised that it intended to take $300 million from the bilateral agreement on housing. That was an absolute disgrace. The election of the Rudd Federal Government could not come soon enough for the people of New South Wales. As a result, all those bilateral agreements will now be revisited, and we will be arguing for a return to proper funding of basic services in New South Wales.

I am pleased to say that in my conversations with him, Wayne Swan has indicated that he and the Rudd Government understand our problem. Mr Swan sympathises with New South Wales and is prepared to sit down and look at restoring bilateral funding to New South Wales. That will clearly reward the public of New South Wales for voting Labor on the weekend. That one comment by Wayne Swan confirmed that the New South Wales public did the right thing by getting rid of the horrible Howard-Costello Government. We all know that Peter Costello did not have the ticker to stay around. He has decided to run off to the private sector; he thinks he is going to be a $10 million man. But given that he took credit for things he never achieved, is it any wonder that no lesser authority than Jeff Kennett said the following about him:

> This one announcement says more about the character of the man than his 11 years as Treasurer of this country.

Jeff Kennett has nailed Peter Costello for what he is—a bloke who wants everything on a platter, a bloke who takes credit for others' work and a bloke who plays politics with funding arrangements for fundamental services. Peter Costello left because the people of Australia comprehensively rejected him as a prime ministerial candidate. I repeat what Kevin Rudd said to our side of politics:

> We have a lot of work to do. So we should all have a strong cup of tea—

[*Time expired.*]

PUBLIC SCHOOLS PRINCIPALS FORUM SURVEY

The Hon. DAVID CLARKE: My question without notice is directed to the Minister for Education and Training. Why did the Minister order New South Wales public school principals not to respond to the Public Schools Principals Forum survey on the Department of Community Services? What is your response to the 200 principals who did respond indicating that they had serious concerns with the Department of Community Services, including the findings that of 1,650 notifications only 155 had been followed up and that 70 per cent of principals expressed concern at the total breakdown of communication between their schools and the Department of Community Services?

The Hon. JOHN DELLA BOSCA: There is significant community support for the special commission of inquiry into child protection, which will be headed by the Hon. Justice James Wood, AO, QC, chair of the Law Reform Commission. This community support includes our school principals and teachers. By way of part answer to the Hon. David Clarke's question, I refer to my repeated public comments that any principal, any teacher, anyone within the New South Wales education system who wishes to canvass matters of child protection should do so with the Hon. Justice James Woods. That remains my view and should be the view strongly supported by every responsible member of this House. Departmental staff and others working in

support roles in the Department of Education and Training are subject to the requirement of mandatory notification of suspected child abuse.

The current system is in place to protect and care for vulnerable children. On 15 November the Public Schools Principals Forum circulated a Department of Community Services survey by email. The survey called on principals to share with the forum's executive specific details and case studies where a child or young person had sustained ongoing abuse or neglect, despite the submission of reports to the Department of Community Services. The Public Schools Principals Forum is a lobby group, a non-official body, that is not protected by the Privacy and Personal Information Protection Act or relevant child protection Acts.

I repeat: Two separate questions in the survey asked principals to share with the principals forum the specific details and case studies where a young child or person had sustained ongoing abuse or neglect. This State has laws that cover disclosure of information relating to individuals or child protection matters, such as the Privacy and Personal Information Protection Act and the Children and Young Persons (Care and Protection) Act. I am advised that all staff employed by the Department of Education and Training have been informed that as soon as the special commission of inquiry is established and fully staffed copies of any advertisements for public submissions placed by the commission will be provided.

I am further advised that the Department of Education and Training will make a submission to the special commission of inquiry and that the department is meeting with Justice Woods and representatives of the special commission of inquiry to establish how best individuals and groups may make submissions. The special commission of inquiry is the appropriate forum for the provision of such sensitive information and a legal and practical way to help. The risky survey referred to by the Hon. David Clarke was, I believe, a lapse of judgment on the part of one of our outstanding principals in public schools. I hope that it does not occur again.

I suggest that if members have further questions, they place them on notice.

DEFERRED ANSWERS

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

FIREARM OUTLETS EXCLUSION ZONE

On 16 October 2007 the Hon. Roy Smith asked the Treasurer, representing the Minister for Planning, a question without notice regarding a firearm outlets exclusion zone. 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, premises selling firearms should not be wholly prohibited throughout an LGA.
>
> In relation to the Ku-ring-gai matter my Department is currently considering the matter within the framework of the EP & A Act.
>
> In relation to the Kogarah matter I have been advised Kogarah Council is yet to seek any formal approval for any particular approach.

SUTHERLAND HOSPITAL ANAESTHETIC MACHINES

On 16 October 2007 the Hon. John Ajaka asked the Attorney General, representing the Minister for Health, a question without notice regarding Sutherland Hospital anaesthetic machines. The Minister for Health provided the following response:

> The Department of Health has not refused to fund six anaesthetic machines at Sutherland Hospital. Funds are allocated to the Area Health Service and are prioritised according to the various competing needs of Hospitals within the Area.
>
> Priorities are set with input from the management of all Hospitals.
>
> Is it not the Minister's view that the responsibility for the purchase of such vital medical equipment should fall solely on community fund raising groups rather than the New South Wales Government.

NEW SOUTH WALES ABORIGINAL YOUTH ADVISORY GROUP

On 16 October 2007 Reverend the Hon. Dr Gordon Moyes asked the Minister for Lands, representing the Minister for Aboriginal Affairs, a question without notice regarding the New South Wales Aboriginal Youth Advisory Group. The Minister for Aboriginal Affairs provided the following response:

> In January 2007, the Government established an Aboriginal Youth Advisory Group (AYAG), made up of ten members from across the State.

The Department of Aboriginal Affairs advised me that unfortunately since its inception the AYAG has not functioned.

I am further advised by the Department that following its establishment, many months passed without the AYAG being able to collectively reach agreement on their Terms of Reference—and in fact, the finalisation of the Terms of Reference remained unresolved over the lifetime of the AYAG.

Despite repeated efforts by the Department of Aboriginal Affairs to contact AYAG members to progress group discussions only two AYAG members regularly responded.

In short, it could not be credibly argued by anyone that the AYAG was a functioning and responsive advisory group.

After careful consideration and advice from the Department of Aboriginal Affairs it was agreed to create a fuller regional structure.

This aligns with the goals of the Bringing Back the Youth Project run by the NSW Aboriginal Land Council (NSWALC), which aims to encourage and promote the participation of Aboriginal young people in the Aboriginal Land Council system, both as members and employees.

The move towards this new structure for the advisory group also corresponds with the new legislative requirements for increased land council membership, by encouraging more young people within the land council system.

For these reasons, I wrote to each Advisory Group Member to inform them of my decision to dissolve the AYAG and replace it with a broader, regional advisory network.

Plans for the new structure are currently being formulated. I believe that the new structure will allow for more young Aboriginal people to have greater input into the Government process and will facilitate the process for their voices to be heard.

The aim of the new regional structure is to facilitate greater participation by young Aboriginal people in decision making as it affects both their local communities and Aboriginal youth more broadly.

CALLAN PARK

On 17 October 2007 Reverend the Hon. Fred Nile asked the Treasurer, representing the Minister for Planning, a question without notice regarding Callan Park. The Minister for Planning provided the following response:

I have been advised the Callan Park Act refers to using the site for community, education and health purposes. Education purposes relate to university use, not primary and secondary schools.

I have further been advised the non-binding Memorandum of Understanding with the University of Sydney referred to exploring the potential for a coherent university campus at Callan Park, which could include student accommodation. Student accommodation, bookshops and cafes are ancillary uses and not in conflict with the Act. Student accommodation is already provided at Callan Park by the NSW Ambulance Service for trainee officers.

CONDONG AND BROADWATER SUGAR MILLS FUEL STOCKS

On 17 October 2007 Mr Ian Cohen asked the Minister for Primary Industries a question without notice regarding Condong and Broadwater sugar mills fuel stocks. The Minister for Primary Industries provided the following response:

Most sawmills in the NSW far north coast process native forest hardwoods, although there are some hardwood and softwood plantations. It is illegal in NSW to generate electricity from native forest residues, other than residues from sawmills and other wood processing plants.

Both Broadwater and Condong are required to comply with the law.

BOTANY BAY DESALINATED WATER PIPELINE

On 18 October 2007 Dr John Kaye asked the Treasurer, representing the Minister for Planning, a question without notice regarding the Botany Bay desalinated water pipeline. The Minister for Planning provided the following response:

On 22 October 2007 I granted project approval for the construction and operation of the water delivery system to distribute desalinated water from the plant at Kurnell and connecting with Sydney's drinking water supply network at Erskineville.

This complements the approval I issued for the desalination plant on 16 November 2006.

The approval of Sydney's desalination plant and supporting infrastructure was subjected to a comprehensive assessment and is supported by a strict set of conditions that will minimise any residual local environmental and amenity impacts.

TAFE COLLEGES CHAPLAINCY

On 18 October 2007 Reverend the Hon. Dr Gordon Moyes asked the Minister for Education and Training a question without notice regarding TAFE colleges chaplaincy. The Minister for Education and Training provided the following response:

Individual TAFE NSW Institutes make decisions on chaplaincy services in consideration of the needs of their local communities. I am advised there are currently chaplains and other religious personnel of various Christian denominations and of the Muslim faith supporting students in four TAFE NSW Institutes.

I am aware of the positive contribution made to the Institutes by these services. For example, one Institute has advised that its chaplain provides a significant assistance to students and staff who have encountered personal difficulties. That chaplain is a vigorous advocate for the values of the campus community, contributing to initiatives such as the Multi-cultural Festival and various activities to mark the significance of the Indigenous community.

Another Institute has advised that the chaplaincy provides support and spiritual guidance for people of all faiths, both students and staff.

Institutes make in-kind contributions to these programs by providing facilities such as offices, prayer rooms and meeting rooms. A number of institutes which do not have chaplaincy services provide prayer rooms for students.

Questions without notice concluded.

TABLING OF PAPERS

The Hon. Tony Kelly tabled the following paper:

Annual Reports (Departments) Act 1985—Report of NSW Police for the year ended 30 June 2007.

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

ASSISTED REPRODUCTIVE TECHNOLOGY BILL 2007

Second Reading

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [5.04 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

I am pleased to bring before the House the Assisted Reproductive Technology Bill 2007. Extensive consultation has been undertaken regarding the practice of assisted reproductive technology [ART] in New South Wales. This process commenced with the release of a discussion paper by the Department of Health in 1997. Prior to finalising its recommendations to government following this extensive consultation process, the department convened a reference group to provide expert advice on the medical, scientific, social and ethical issues involved. Public consultation has continued with an exposure draft bill and accompanying information guide, which were tabled in Parliament in December 2003. Stakeholders responded very positively to the draft bill. More than 60 submissions were received. All the issues raised were carefully considered and, where appropriate, have been incorporated into this bill. I express the Government's appreciation to the many people and organisations who contributed to the development of this important legislation. The extent and quality of the submissions that were made during the development of this legislation reflect the degree of community interest in the regulation of reproductive technology. I seek leave to have the balance of my speech incorporated in *Hansard*.

Leave granted.

The legislation has benefited greatly from the valuable contributions made by organisations, members of the community and health professionals.

The bill aims to address a range of issues relating to the social and ethical aspects of ART which were identified during the consultation process as warranting a legislative response.

It provides a broad framework for the practice and conduct of ART services.

The development of this legislation has been guided by three important principles.

The first is to recognise obligations already imposed on ART providers by the existing laws, such as the Medical Practice Act 1992.

The second is to recognise the rights of individuals to have control over the use of their genetic material.

The final principle is "the best interests of the child" and a recognition of the paramount importance of this principle.

The bill does not duplicate the existing regulatory framework that applies to the clinical aspects of ART practice.

Rather it complements and enhances the current system to clarify and protect the rights and obligations of people involved in ART treatment and it must be recognised that this includes the rights of children born as a result of that treatment.

I wish to clarify that the definition of "embryo" in the bill is different to the definition of "human embryo" in the Human Cloning for Reproduction and Other Prohibited Practices Act.

The reason for that difference is that the bill is designed to regulate the social aspects relating to the provision of ART treatment while the Human Cloning for Reproduction and Other Prohibited Practices Act is designed to prohibit certain ethically unacceptable practices and to regulate a further range of ethically contentious practices.

Given the focus of the bill is on regulating the social aspects of assisted reproductive technologies and on protecting the interests of the people involved in the relevant procedures, it is vital that the provisions of the bill dealing with embryos apply as soon as the gametes are joined to form an embryo.

The legislation is consistent with and complements the National Health and Medical Research Council's Ethical Guidelines on the use of Assisted Reproductive Technology in Clinical Practice and Research. The definition of "embryo" in the bill is entirely consistent with the use of that term in the guidelines.

Part 2 of the bill regulates providers of assisted reproductive technology.

It establishes a system of registration and a public register of ART providers and permits only registered providers to provide ART services in New South Wales.

ART services are any medical treatment or procedure that procures or attempts to procure pregnancy other than by sexual intercourse and includes artificial insemination in-vitro fertilisation and gamete intrafallopian transfer.

The collection and storage of gametes is also an ART service for the purpose of the bill.

The bill sets minimum standards about the provision of ART services including that;

- all treatment is to be provided by registered medical practitioners;
- providers must make counselling available to individuals spouses and donors involved in such treatment; and
- providers must comply with any infection control standards prescribed by regulation.

The second underlying principle in the bill is recognition of the rights of individuals involved in ART treatment either directly or as donors to have control over the use of their genetic material.

The bill requires providers to use gametes in accordance with the consent provided by the person from whom they were obtained.

Donors will be able to withdraw or modify their consent to the use of their gametes at any time before the gamete is implanted in a woman or until an embryo is created using those gametes.

In the case of an embryo created using sperm created by a woman's spouse the spouse is to be able to withdraw his consent at any point up until the embryo is implanted.

These provisions ensure that a person's gametes can only be used in accordance with their own explicit instructions and consent. For example if a person dies their gametes can only be used if that person consented to the posthumous use whilst they were alive.

Similarly gametes may only be collected from a person who is in a persistent vegetative state or otherwise unable to consent if that person gave consent to collection and use of their gametes before losing the ability to consent.

Clause 17 of the bill allows a gamete donor to place conditions on their consent, including a condition that directs that their gametes can only be used by a particular person or a particular classification of people.

For example, people of a particular cultural or ethnic background may only consent to the use of their gametes by people from a similar background.

The ability for donors to place conditions on the use of their gametes is especially important because any child born as a result of that donation will be able to identify their genetic parents and may wish to contact or meet them.

It is believed to be in the best interests of the child for the genetic parent to have given consent to the circumstances surrounding the child's birth and upbringing.

To put this in another way, it will not be in the child's best interests to discover later in life that their genetic parent has a fundamental objection to their existence or the social and cultural circumstances in which they were raised.

Clause 27 of the bill recognises the interests of people involved in treatment by limiting the number of women who can be provided with gametes from the same donor to five.

This allows families to have several genetically related children whilst reducing the risk of donor offspring unknowingly entering a relationship with a blood relative.

Children are protected from exploitative or inappropriate involvement in ART procedures by clause 29 of the bill.

That clause provides that with the exception of the collection and storage of gametes for the child's future use no ART treatment may be provided to a child.

The only circumstances in which a child's gametes may be collected and stored are if a medical practitioner certifies that there is a reasonable risk of the child becoming infertile before becoming an adult.

The gametes obtained cannot be used until the child becomes an adult and consents to their use.

The third and most important underlying principle in the bill is the recognition of the rights of the children born as a result of ART procedures and the importance of acting in their best interests.

A fundamental aspect of this right is the availability of and access to information about their biological parents and siblings.

Part 3 of the bill constitutes the central ART donor register so that children born from ART procedures using donor gametes or in some circumstances their parents or other persons with parental responsibility may access identifying and non-identifying information about their biological parent.

Providing information to the register will be mandatory and anonymous donations will be outlawed.

Children born following the use of donated gametes will also be able to place information on the register to be accessed by the donor.

Access to this information will only be allowed in accordance with the child's consent and that consent can only be given once the child becomes an adult.

The placing of information on the register will be entirely voluntary, although the bill does make provision for the regulations to prescribe non-identifying information that can be released to the donor without consent.

I emphasise that the mandatory donor register will not operate retrospectively.

While this is a matter of some concern to groups representing donor-conceived children, it is important that the guarantees of anonymity that many donors were given in the past are respected.

However, I am pleased to advise that the bill will facilitate the creation of a voluntary retrospective register.

This allows donor-conceived children born prior to the commencement of this legislation to access information about their biological parent and have contact with that parent if the donor agrees to provide information to the voluntary register.

Similarly, donor-conceived children will be able to place information on the register and consent to that information being made available to their donor.

The ability of donor-conceived children to obtain information about their genetic background is a matter that is of vital importance to those children and in many cases their parents.

The registers both mandatory and voluntary will help those children to fill what many consider to be a major gap in their lives.

Part 4 of the bill concerns surrogacy arrangements.

This part of the bill prevents the commercialisation of human reproduction by unequivocally prohibiting commercial surrogacy.

Consistent with existing law it makes all surrogacy arrangements, whether commercial or altruistic, void and therefore unenforceable.

This includes those agreements made before the legislation commences.

Part 5 of the bill provides powers for the inspection of premises where ART services are provided and enforcement of the Act including the power to:

- enter and inspect premises
- request information and records
- remove items for analysis or testing
- obtain and execute a search warrant

Part 6 of the bill provides for powers of enforcement in respect of ART providers.

This includes the power to prevent an ART provider who has contravened relevant legislation, including the Human Cloning for Reproduction and Other Prohibited Practices Act 2003 and the Research Involving Human Embryos (New South Wales) Act 2003, from providing services.

Such a prohibition may be made for an unlimited time or for a specified period for breaching the requirements of the Act or regulations.

Part 6 also recognises the existing regulatory role of the Fertility Society of Australia by providing that an ART provider who has been refused accreditation or had accreditation suspended by that society's Reproductive Technology Accreditation Committee may be prohibited from providing ART services. It is proposed to commence the Act by proclamation. There will be a lengthy and detailed implementation period during which the Department of Health will consult extensively with stakeholders on regulations under the bill, including regulations concerning the donor register and infection control standards.

It is essential that stakeholders be involved in the development of the donor register and be provided with clear information on their rights and obligations before the Act commences.

Furthermore, it is my intention that the donor register be established and operational when the legislation commences.

Whilst a substantial amount of planning has already been undertaken, the practical steps involved in creating the registers cannot be undertaken until the details of the relevant regulations have been settled.

This bill clarifies and protects the rights and obligations of people involved in ART treatment.

It provides a strong regulatory framework for the ethical and social issues raised by these technologies in a manner that is sensitive to and achieves an appropriate balance between the diverse needs of donor-conceived children, parents, donors and providers.

Most importantly, the bill recognises the primacy of the best interests of the children conceived using the technology whilst providing clear directions about the rights and obligations of donors, parents and providers.

As such, the bill represents a major advancement in the appropriate regulation of a medical technology that raises far-reaching and complex social and ethical issues.

I commend the bill to the House.

The Hon. JENNIFER GARDINER [5.05 p.m.]: The Opposition does not oppose the Assisted Reproductive Technology Bill, but we wish to refer to a number of issues during this important debate. The bill prevents the commercialisation of human reproduction. Its aim is to protect the interests of certain persons who are affected by assisted reproductive technology, commonly known as ART treatment. It sets out requirements so that assisted reproductive technology providers will, in future, need to be registered by the Director General of the Department of Health. It also sets out requirements about the provision of assisted reproductive technology services, including that assisted reproductive technology services must be undertaken by or under the supervision of a registered medical practitioner and that counselling services are made available.

It also places a number of restrictions on the use of gametes and embryos. Pursuant to this bill, providers of assisted reproductive technology will have to collect certain information from persons involved in the treatment and donors. Further, the director general will establish a central assisted reproductive technology donor register that permits persons involved in this treatment and donors to obtain information about other persons. It also permits a person who was born as a result of this treatment using a donated gamete to obtain information from the donor. The bill prohibits commercial surrogacy and will make surrogacy agreements from the past void. It also sets up a regime for the enforcement of this legislation.

The Opposition acknowledges that families affected by assisted reproductive technology, particularly children born from anonymous sperm donation, have been active in promoting the need for this bill. We note that similar legislation is in place in other jurisdictions. For example, similar legislation has been in place in Victoria since 1995. So New South Wales is dragging the chain. Back in 1997 the New South Wales Department of Health released a discussion paper and a draft exposure bill was tabled in 2003. The shadow Minister for Health, Jillian Skinner, has met with the main lobby group, the Donor Conception Support Group, on a number of occasions. In 2005 Mrs Skinner asked questions on notice relating to the failure of the New South Wales Government to act on this matter, with a view to prompting the Government to get its act together.

In November 2005 Mrs Skinner asked: Why has legislation on assisted reproductive technology not been tabled in Parliament when the draft exposure bill was presented back in 2003? She asked: When will legislation be put before the Parliament? She asked: What steps is the Government taking to secure the records of donor offspring already conceived in New South Wales? She also asked: Will the Government put in place a voluntary register to enable donor offspring and past donors to lodge their details so that identification may take place if desired by both parties? In February 2006 the then Minister for Health replied that the Government was currently considering the submissions made in response to the draft exposure bill and was developing legislation for introduction into Parliament. It has been slow to surface but it is good that it has appeared at this point. The current Minister for Health flagged her intention to introduce the bill on 4 November.

The Opposition believes that the bill largely reflects the current practice in relation to assisted reproductive technology. The bill will allow people born as a result of assisted reproductive technology treatment in the future to obtain information about their donor. A central register will be set up to help address concerns about the potential of such people unknowingly entering into a relationship with a biological sibling. That matter is debated increasingly in the public arena. The Opposition does not oppose the bill.

The Hon. KAYEE GRIFFIN [5.11 p.m.]: I support the Assisted Reproductive Technology Bill 2007. Protection for people who are unable to give consent to donate their gametes may arise where a person is not conscious, not legally competent or is dead. Part 2 of the bill prevents the use of a gamete or the export of a gamete from New South Wales without the prior consent of the gamete provider. Furthermore, clause 23 of the bill prevents a gamete being used after the gamete provider's death, unless the provider of the gamete has consented during his or her lifetime. This will allow gametes in storage to be used where the gamete provider has died but only where consent has been obtained from the gamete provider for his or her gamete's use in posthumous conception. The recipient must also be notified about the donor's death and agree to receive those gametes. This approach is consistent with parts 6.15 and 8.4 of the National Health and Medical Research Council's ethical guidelines on the use of assisted reproductive technology in clinical practice and research.

Gamete donors may limit the number of times their gametes can be used. In the absence of any limit imposed by the donor, the bill specifies that only five women can have children using the same donor's gametes. The limit of five will apply also if the donor seeks to specify a number greater than five. The bill does not limit the number of children the five women may each have. This allows parents to freely choose the size of their family and to have genetically related children. It is not appropriate to legislate family size or to limit the number of genetically related siblings born to couples solely on the basis that the children were conceived using assisted reproductive technology. This maintains consistency with part 6.3 of the National Health and Medical Research Council's ethical guidelines on the use of assisted reproductive technology in clinical practice and research, which provides that the number of children born from a single donor should be limited.

Careful consideration has been given, and will continue to be given, to the kind of information, in addition to the identity of the donor-offspring, that should be recorded on the central assisted reproductive technology donor register. In respect of the donor, it is proposed that the following minimum information be collected at the time of donation: name, date of birth and other information required to establish identity; basic physical description—height, hair colour, eye colour, build; place of birth; country of parents' birth; language spoken at home; marital status; occupation; and number of children. In respect of children, the provision of information to the register will be voluntary. However, the register will be developed with the capacity for the following information to be recorded: name, date of birth and other information which may be required to establish identity; place of birth; country of parents' birth; language spoken at home; marital status of parents; occupation of parents; and number of siblings at time of birth.

Also, there will be a voluntary register for children born using assisted reproductive technology procedures before the commencement of the legislation. In line with the National Health and Medical Research Council's ethical guidelines on the use of assisted reproductive technology in clinical practice and research, most assisted reproductive technology clinics do not accept anonymous donations. This has been the case since 1996. However, before that time many donors were guaranteed anonymity. The voluntary register will enable consenting donors and donor-conceived children to access any information that is voluntarily provided. Development of the voluntary register will be undertaken in consultation with stakeholders, and those consultations will inform the type of information that can be included on the register.

The Hon. MARIE FICARRA [5.15 p.m.]: The Coalition supports the Assisted Reproductive Technology Bill 2007. The bill recognises that the paramount responsibility we have as legislators is to protect the interests of children conceived using assisted reproductive technology, such as artificial insemination, in-vitro fertilisation and gamete intra-fallopian transfer. Assisted reproductive technology is a great gift of life given to men, women, parents and families. It is an area where scientific developments have brought so much joy into individual and family lives.

This bill will recognise the rights of individuals involved in assisted reproductive technology to have control over their genetic material. Currently, public assisted reproductive technology clinics are obliged to keep all patient records relating to the assisted reproductive technology in accordance with the Medical Practice Act 1992 and State Records Authority Regulations 2004. In order to attain accreditation from the Reproductive Technology Accreditation Committee, private clinics need to comply with the guidelines endorsed by the National Health and Medical Research Council. However, after so many years of successful operation of

assisted reproductive technology, additional necessary checks and balances should be put in place. We recognise the need to put regulations in place to ensure that we continue to improve the ethical and social outcomes from such technological advances.

This bill addresses the concerns that have been expressed with regard to donors, parents and offspring. In this regard I acknowledge the worthwhile contribution over many years of the Donor Conception Support Group, whose representatives have met with many members to better inform them of the background of this legislation and related assisted reproductive technology issues. Victoria introduced similar laws in 1995—12 years ago. I cannot ignore the undue lengthy process that the New South Wales Government has engaged in to arrive at this point, and it deserves comment. New South Wales Health released a discussion paper on the subject back in 1997 and positive input with more than 60 submissions provided by the Australian Medical Association, individuals and other relevant medical bodies, donor and patient support groups.

Legislation was introduced in this Parliament in 2004 and it has been shelved ever since. Why? We have lagged behind Victoria and Queensland for some time and this unnecessary delay has caused more anxiety and problematic social issues for many Australians. Children have the right to know their identity and, importantly, their genetic heritage. Thankfully, this will be the end of anonymous gametes—predominantly sperm donations in New South Wales. We have come a long way from the previous concepts of wanting to protect chiefly adult rights, prospective parents' rights and donors' rights to privacy. There is now a better understanding of the importance of sharing genetic knowledge. With so many births from assisted reproductive technology such situations are becoming better accepted and understood in our community.

Children conceived in the early years of assisted reproductive technology are now adults and have wanted to know their genetic parentage. Advances in genetic science and the linkage to certain diseases and medical conditions have meant that the knowledge of genetic parentage is useful for persons born as a result of assisted reproductive technology. This bill will allow such persons if they so desire to find out more information about their genetic parents, siblings and half siblings where they exist and consent. Naturally, such information on siblings will be made available only with the sibling's consent.

Providing information to the register will be mandatory for this legislation to work. However, consent to release such information will always be required, especially in cases of conception prior to this legislation coming into force. In such cases this retrospective register will be voluntary for donors and offspring. The mandatory register for new cases will exist at the same time as a voluntary register. My questions to the Minister are: What resources will be provided to ensure public awareness of this retrospective information gathering? What form of and how much advertising or notification to previous gamete donors and their offspring will occur and who will undertake it? Are there any time frames in place for such an exercise?

Part 3 of the bill, dealing with the central assisted reproductive technology register, will allow offspring, and in some cases parents or other persons with parental responsibility, to access identifying and non-identifying information about their biological parent. Offspring will be able to place information on this register to be accessed by relevant donors. Access to this information can be given only with the offspring's consent and only when they become an adult. It should be stressed that the mandatory donor register will not operate retrospectively, respecting the original undertaking of anonymity given by authorities in the past.

I wish to express a concern on behalf of the Donor Conception Support Group about the time limits on the keeping of assisted reproductive technology birth information on the central register. The bill provides for 50 years and the Coalition asks that the Government consider making this limitless as is the case for normal births. Moreover, how often will registered assisted reproductive technology clinics be obliged to provide necessary information to the central register? I would have thought this should be regular—for example, quarterly—and included in this legislation. Victoria has mandated every six months for the transfer of such information.

This bill recognises the rights of gamete donors to have their gametes used in accordance with their expressed consent, especially in future given the greater likelihood of contact between donors and offspring. Clause 17 of the bill allows for the placement of consent conditions by donors that their gametes can be used only by a certain person or a particular classification of person, including racial and cultural distinctions. Donors will be able to withdraw or modify their consent for the use of their gametes—either egg or sperm—at any time before the gamete is implanted in a woman or until an embryo is created using that gamete. This will apply even when that donor is a woman's spouse and in posthumous circumstances to ensure that a person's gametes will always be used in accordance with their current and explicit instructions and consent. Gametes can be harvested only from a person who is in a persistent vegetative state or otherwise incapable of giving consent if that person gave clear consent to such collection prior to their losing their ability to consent.

Because a sperm donor must undergo a number of medical and other checks, the cost to the sperm bank is not inconsiderable. This normally means that some clinics until now may have used the same donor to produce pregnancies in a number of different women. The number of pregnancies permitted varies according to law and practice. I am delighted that clause 27 of the bill will limit to five the number of women who can be provided with gametes from the same donor. This restriction will reduce the risk of donor offspring unknowingly entering into a relationship with a blood relative.

Victoria limits donations to 10, Western Australia to five, New Zealand to 10, Denmark to 25 and Sweden to 12. Most European countries are steadily amending their legislation, as we are doing in New South Wales. In the United Kingdom there is a limit of 10 families that can use the gametes of one donor. However, there is no limit to the number of children that may be born to each such family from the same donor. A donor may set a lower limit and may impose conditions on the use of his sperm. In addition, there is no prohibition on the export of sperm from the United Kingdom provided that the number of families created in there does not exceed 10 at the time of the export. This means that in practice some donors may produce substantial numbers of children, particularly where sperm samples are exported within the European Union to countries such as Belgium or Spain.

The United States limits a donor to 25 live births per population area of 850,000. However, there is no central tracking and it has been estimated that only about 40 per cent of births are reported. It is likely that some donors have more than 100 genetic children. That is clearly unsatisfactory. Some sperm banks impose lower limits—for example, the Sperm Bank of California has a limit of 10 families per donor—and it is recognised that State legislatures will have to amend their laws as assisted reproductive technology-related social and genetic issues gain prominence.

It is worth noting that the United Kingdom has a similar central register to that we are currently debating. It has a register of people conceived using gamete donation after 1 August 1991. People conceived using donations made after 1 April 2005 have the right to know who their donor was when they turn 18. UK DonorLink is a voluntary register for people conceived before 1 August 1991 and for their donors. There also exists a very successful international web-based registry called the Donor Sibling Registry, which has helped to facilitate more than 3,900 matches between people who share genetic ties—that is, donor offspring, half siblings and donors—through the unique donor identity numbers assigned by the sperm banks to the donors. Meetings between donors and their offspring and between half siblings have in general been extremely successful and are becoming increasingly common.

Clause 29 protects children against any possible exploitative or inappropriate involvement in assisted reproductive technology procedures. The only circumstance in which a child's gametes can be collected and stored is if a medical practitioner certifies that there is a risk of the child becoming infertile before becoming an adult, usually in the case of oncology treatment or serous endocrinological, gynaecological or urological conditions. Then gametes cannot be used until the child becomes a consenting adult. The bill prevents surrogacy whether for altruistic or commercial reasons, and this will include any agreements made before this legislation commences. Assisted reproductive technology providers will have to be registered and treatment provided by appropriately specialised doctors. Part 5 of the bill will allow the entry and inspection of assisted reproductive technology premises, the ability to request information and records, to remove items for analysis and testing, and to obtain and execute a search warrant. Hopefully these powers will be used sparingly, but they are necessary. Interestingly, a search of the Internet established that in Victoria a donor must be:

> Aged between 21- 45 years
>
> Not in a high risk AIDS group
>
> Prepared to consent to the release of identifying information to offspring - donor treatment can only be facilitated under circumstances where the child can know their genetic parents
>
> Compliant with all relevant legislation and regulation relating to donation of gametes. (RTAC Code of Practice; NHMRC Ethical guidelines on the use of assisted reproductive technology in clinical practice and research September 2004, Vic. Human Tissue Act 1982)
>
> Prepared to provide information on previous donations and agree to limit births to no more than 10 families, if relevant
>
> Prepared to undertake screening tests for infectious and genetic diseases
>
> Prepared to have all frozen semen quarantined for 6 months and undertake repeat screening tests prior to release of semen
>
> Prepared to undergo counselling (this includes with partner if relevant)

Able to provide a genetic family medical history

Prepared to release medical information to the recipients to enable informed consent

Preferably less than 40 years of age

They are all sensible recommendations. It is pleasing to see that this bill will mandate counselling to be provided to individuals, spouses and donors involved in the assisted reproductive technology process where they so desire at the point of information release from the register and naturally during the assisted reproductive technology procedure itself. Personal, ethical, familial and social issues undoubtedly arise both during treatment and later in life for offspring, donors, spouses and families, especially regarding their genetic background. For these reasons counselling will provide accurate, impartial, sensitive and up-to-date information and support. Gamete donor registers, both mandatory and voluntary retrospective registers, will assist many Australians to fill important emotional, physical and social gaps in their lives. This bill recognises the importance of assisted reproductive technology children's and offspring's interests and rights to their genetic heritage as uppermost while ensuring the rights and obligations of donors, parents and providers in this ever-widening field of necessary medical science. The Coalition does not oppose the bill.

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

ADJOURNMENT

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [5.30 p.m.]: I move:

That this House do now adjourn.

WORKPLACE RELATIONS

The Hon. GREG DONNELLY [5.30 p.m.]: Maree Filipczuk is a middle-aged working mother, a sole breadwinner doing what she can to support herself and her family. She resides and works in Western Sydney. Maree commenced employment in September 2005 as a shop assistant in a jewellery store in Penrith. Within weeks of commencing employment she expressed concerns to her store manager about not being provided with payslips. She also raised concerns about whether she was being paid correctly pursuant to her relevant award with respect to pay rates and superannuation. Without being able to secure a satisfactory answer from the store manager, she wrote to the employer on 29 March 2006. She outlined in the letter that she had made inquiries to the State industrial relations department about the obligations of employers to provide payslips, and to the Australian Taxation Office about her superannuation entitlements. In the letter, Maree outlined that she believed that she had been underpaid with respect to both wages and superannuation.

Thirteen days later she had a phone call with the employer about her Easter roster. She took the opportunity to quiz him about whether or not he had paid her superannuation. Immediately after asking the question, the employer told her to hand the phone to the store manager. A brief conversation between the employer and the store manager ensued. The store manager then said to Maree words to the effect of, "The owner wishes me to dismiss you on the spot." She was then told to leave the store immediately. Maree had been a very good employee. She had established an excellent working relationship with her store manager, who held her in high regard. She was well presented and punctual, and she took her work seriously as a sales assistant in the jewellery store.

So what was the great sin that had precipitated her termination? In reality, nothing. All Maree had tried to do was ensure that she got what she was entitled to—nothing more and nothing less. However, because of John Howard and his WorkChoices legislation, she had been hung out to dry. Her employer had fewer than 100 employees, therefore excluding Maree from being able to make an unfair dismissal claim. For many workers, this would have been the end of the line. However, Maree was a member of the Shop, Distributive and Allied Employees Association. After being terminated, she contacted the association for counsel and assistance. With the assistance of the union the specific circumstances of her termination were examined. It was concluded that a technical legal argument could be advanced that her dismissal was in breach of sections 728 (2) and 792 (1) (a) of the Workplace Relations Act. On behalf of Maree the union took her case to the Federal Magistrates Court of Australia.

After detailed argument and the association accumulating a legal bill of $50,000 on behalf of Maree, Turner FM handed down his judgment yesterday. For terminating Maree in the circumstances that he did, the employer was ordered to pay $4,950. The court also assessed the monetary loss suffered by Maree to be $9,729.46 less tax. The employer was also ordered to pay that amount. For those on the other side of politics who are still wondering about what happened last Saturday let me simply say this. Saturday was about Maree and the countless millions of Australian workers, including many who are not in a union, who all deserve, along with their families, a fair and decent workplace relations system. For over 100 years Australia has had a unique workplace relations system that has evolved and developed to accommodate our changing world. Labor, both in its industrial and political wings, has nurtured and supported this unique industrial relations system from its inception and will continue to do so.

Paring things right back to the core, the essence of what we have shared as a society is an innate sense that "fairness" or "a fair go" is something that we expect to both receive and give. We all know it when we see it. Conversely, when it is missing we feel hollow and uncomfortable. It is not the Australian way. Australians have spoken loudly and emphatically. We must not waste a moment in restoring to the nation a workplace relations system that provides fair and decent wages and working conditions for all Australian workers and their families along with certainty for employers to operate their enterprises productively and profitably. The Australian Labor Party can and will deliver on this mandate given to it by the Australian people on 24 November 2007.

AUSTRALIAN LEBANESE CHAMBER OF COMMERCE

The Hon. JOHN AJAKA [5.35 p.m.]: I speak tonight on the Australian Lebanese Chamber of Commerce and its celebration of the illustrious achievements and remarkable contributions made by local Lebanese Australian entrepreneurs to the Australian business community in the areas of hospitality, service, industry and construction. On 16 November 2007 I had the great privilege of attending the Australian Lebanese Chamber of Commerce awards night, with distinguished guests of honour the Hon. Philip Ruddock, Federal Attorney-General, His Lordship Bishop Abikaram, His Lordship Bishop Saliba, His Lordship Bishop Darwishe, His Lordship Bishop Melki Melki, Reverend Superior Father Tarabay, His Excellency Mr Nazer, Ambassador of the Saudi Arabian Kingdom, His Excellency Dr Al Shamsi, Ambassador of the United Arab Emirates, and His Excellency Mr Naoum, Consul General of Lebanon.

The Australian Lebanese Chamber of Commerce has, since its inception in 1985, worked with both the Australian and Lebanese governments to forge stronger commercial and trade relations between Australia and Lebanon, and is held in the highest regard by the business community. The current Australian Lebanese Chamber of Commerce board members, many of whom I am honoured to call friends, are Mr Joe Khattar, Michael Symond, Michael Rizk, Michael Murr, Nadia Obeid, Danny Arraj, Dr Anthony Hasham, Adam Malouf, Salim Nicholas and Maurice Doumit. I had the honour of being a past director of the Australian Lebanese Chamber of Commerce.

The president of the chamber, Mr Joe Khattar, is a well-recognised leader in the Lebanese community. He was born in Lebanon and migrated with his family to Australia in 1967. Since that time, Joe has gone on to achieve remarkable success and is currently the chief executive officer of the Dyldam Group, a family owned and operated construction business. He is an active member of the community who has generously given his time to serving on a multitude of boards including the Australian Lebanese Chamber of Commerce, Sydney University, the Australian Lebanese Foundation, Westmead Hospital, the Millennium Foundation and a large number of private companies. Mr Joe Khattar is an exemplary model for Lebanese Australians and the broader community. His dedication to others, coupled with his focus and vision, has made him a valued and well-respected member of the community. The same can be said of all of the directors of the Australian Lebanese Chamber of Commerce, men and women of Australian Lebanese background who have contributed so much to the Australian community.

The Australian Lebanese Chamber of Commerce has led the way in developing trade and service opportunities between Australia, Lebanon and the Middle East, and has worked in conjunction with Australian State and Federal governments in recent years to organise several high-profile trade missions to Lebanon. It has encouraged the involvement of delegates from leading Australian companies representing various sectors such as pharmaceuticals, construction, water treatment, waste management and finance and who have provided invaluable input throughout these crucial consultative processes. The Australian Lebanese Chamber of Commerce has further strengthened Australia's trading partnerships by liaising with the chambers of commerce in Beirut and Lebanon. In 1997 the Australian Lebanese Chamber of Commerce organised the first-ever

Australia Product Exhibition in Beirut during a ministerial visit by the then Premier of New South Wales, the Hon. Bob Carr. Significantly, the chamber has also hosted several business, educational and government delegations from Lebanon, and was the first to receive and introduce to the Australian business community leading personalities from the Lebanese world of commerce, such as Dr Marwan Iskandar.

The Australian Lebanese Chamber of Commerce has provided considerable guidance over the years to entrepreneurs conducting business in Lebanon and Australia. It has launched a number of Lebanese products on the Australian market, and has been a strong advocate of the upgrading and treatment of fresh Lebanese produce to meet international standards. In addition to its commercial and international trade partnership initiatives, the Australian Lebanese Chamber of Commerce also provides import/export information and advice, and certification of export documents, and conducts market feasibility studies and surveys. However, in the advancement of Australian and Lebanese commerce perhaps the most significant of the chamber's functions is its educative role. It is a regular host of business seminars, focusing on core issues such as real estate, finance, banking, construction, tax laws and workers compensation—thereby providing invaluable networking channels for members and supporters.

The annual business awards dinner stands foremost amongst these events as a significant forum for the laudation of those who have excelled in the various commercial fields, which together form the rich tapestry of our business community here in Australia. I place on record my congratulations to the winners of the awards on the night—in no particular order as all award winners are of equal standing—Deicorp Construction in the construction industry, Brick and Block Company in manufacturing, and Michel's Dry Cleaning for excellence in service. Mrs Alice Doumani won the Appreciation Award for her incredible work within the community at large. Previous winners have included Mr Joseph Assaf, chairman of Jascom, Mr Khalil Herro of Herro Brothers, Mr John Symond of Aussie Home Loans, Mr Alf Moufarrige of Servcorp Serviced Offices, Mr George Ghossayn of Kari and Ghossayn Group, Mr Joe Khattar of Dyldam and Mr Tony Hakim of NTG. I congratulate the Australian Lebanese Chamber of Commerce on its work in the community and applaud its efforts in developing trade links and ties between Australia and the Middle East. I hope that its invaluable work receives recognition and appreciation. [*Time expired.*]

TASMANIAN PULP MILL

Dr JOHN KAYE [5.40 p.m.]: The integrity of the planning and assessment processes, both State and Federal, that led to the approval of the pulp mill in the Tamar Valley, in northern Tasmania, is clearly undermined by the influence of the applicant, Gunns. It is a matter of grave concern for all State and Federal governments in Australia as it infects and smears the reputations of good governance in this country. One company, Gunns, its managing director and executive chairman, Mr John Gay, and its board members have been allowed to dominate, control and corrupt the political processes of Tasmania because politicians, both Labor and Liberal, lack the commitment to the public good to resist the power and influence of Gunns and its management.

Nowhere has this been clearer than in the biased, ad hoc and patently influenced planning processes leading to the approval of the mill. There is no doubt that this approval was the direct result of the relationship between the Lennon Government of Tasmania and Gunns, a relationship that also infects the Tasmanian Liberal Party and has spilt over into the national arena.

The approval was granted despite the massive and unacceptable damage the pulp mill will inflict on the air quality, marine environment, fishing industry and forest ecosystems of Tasmania, and on job opportunities and the economy in northern Tasmania. An examination of the material circumstances leading up to the approval strongly and clearly demonstrate the undue influence of Gunns. This includes repeated attempts to subvert the assessment process conducted by the independent Resource Protection and Development Commission, culminating in the unilateral withdrawal of Gunns. Subsequently, the commission was replaced with a less stringent and blatant political parliamentary approvals process of legislation that was drafted with the substantial involvement of Gunns' lawyers.

The legislation anticipated corrupt planning with provisions that removed the ability to challenge development consent of the mill if it were to be proved that the consultants had been bribed. The relationship between Gunns and Tasmanian Premier Paul Lennon was exposed when he refused to produce receipts or other documentation in respect of renovation of his family home by a subsidiary of Gunns Pty Limited, a company that normally does not involve itself in home renovation. This comes on top of the history that includes an attempt by the then Gunns chairman, Edmund Rouse, to bribe State Labor member Jim Cox to bring down the then State Government of Tasmania, an attempt which failed when Mr Cox blew the whistle on them.

Substantial campaign donations to the Labor and Liberal parties and to the Liberal-linked Free Enterprise Foundation further undermine the reputation of Tasmania. In Gunns' Tasmania, vocal opponents of the mill have suffered gross acts of intimidation, including the use of vexatious lawsuits, arson, threats of physical assault, discriminatory exclusion from employment, and organised social ostracism. The only way for the Tasmanian Government to resolve these allegations that damage the reputation of the State and the nation, including by implication the State of New South Wales, would be to establish a royal commission or equivalent independent inquiry with a broad brief to investigate the planning and approval of the pulp mill in Tasmania.

AUSTRALIAN WORKPLACE AGREEMENTS

The Hon. LYNDA VOLTZ [5.44 p.m.]: The election of the Rudd Labor Government is a historic one for women, not least because, for the first time, a woman has been elected as the Deputy Prime Minister. No-one should be surprised because Julia Gillard is a highly talented individual and was easily elected to represent the Labor Party for this reason. She will be one of the most capable Deputy Prime Ministers this country has had, and I congratulate her on her election. This comes at the same time that Marion Scrymgour has become Deputy Chief Minister for the Northern Territory, the first Aboriginal Australian to be deputy leader of a government.

Women will greatly benefit from the Rudd Labor Government's commitment to replace the Howard Government's WorkChoices laws and unfair Australian workplace agreements with a fairer and more flexible system. Because women have a greater reliance on award rates of pay, penalty rates and other award-based conditions, they have become disproportionately affected by WorkChoices and have suffered the burden of having to facilitate individual agreements under part-time and casual conditions.

Figures show that women employed under Australian workplace agreements earned 11 per cent less than women on collective agreements. Casual employees working under Australian workplace agreements earned 15 per cent less than casual workers engaged under collective agreements. Part-time workers employed under Australian workplace agreements were much worse off than casuals employed under the same instrument, receiving 25 per cent less pay than part-time workers under collective agreements.

The WorkChoices Act decentralises wage setting, stipulating centralised adult minimum wages that are determined at a price to encourage individual bargaining. Women and other vulnerable labour market groups such as the Aboriginal community and the disabled are not adequately protected, making equal remuneration for work of equal value difficult to achieve. The Howard Government's WorkChoices laws went too far. They cut basic rates like overtime, penalty rates, leave loading and job security, but what they really took away from the workplace was respect, and the Howard Government paid the price for the inability to accept this on polling day. In March 2007 the Australian Council of Trade Unions released a report on the first year of WorkChoices that showed reduced job security and falling wages for full-time workers, yet John Howard labelled it a scare campaign. At that time Pru Goward conceded that WorkChoices had been a factor in voter dissatisfaction with her party. She stated:

> They were telling me that their shift loadings were being cut and their incomes were going down.

Goward also warned that a proposal to reduce hundreds of awards to a core group of 17 must preserve the rights to maternity leave.

The Hon. Don Harwin: Point of order: This is a matter that is listed in the order of precedence for this Thursday. It is out of order.

The Hon. LYNDA VOLTZ: No, that is on maternity leave.

The PRESIDENT: Order! As I understand it, the honourable member is speaking generally about WorkChoices.

The Hon. Michael Gallacher: To the point of order: She is being quite specific. She is referring to comments allegedly made by Pru Goward prior to 2005. In fact, these are the exact same quotes that are listed on the *Notice Paper*.

The Hon. LYNDA VOLTZ: These quotes are from 27 March 2007 in the *Age.*

The Hon. Michael Gallacher: The comments she is referring to are the same as the matter set down for this Thursday.

The PRESIDENT: I ask the Hon. Linda Voltz whether the matters she is referring to are the same as matters already on the *Notice Paper*.

The Hon. LYNDA VOLTZ: No, they are in regard to maternity leave under WorkChoices.

The PRESIDENT: Order! As a consequence, there is no point of order. The Hon. Lynda Voltz may proceed.

The Hon. LYNDA VOLTZ: John Howard did not listen to what either the electorate or other members of the Liberal Party were telling him about the WorkChoices laws. This is not surprising because, as Geoffrey Barker said in today's *Australian Financial Review*, "Few have exploited the politics of fear and loathing more effectively than Howard." He then went on to say that Howard has a knack for exploiting social prejudices and divisions. Let us hope that future Coalition campaigns have learned the lessons from these types of fear and loathing campaigns. The demonisation of the trade union movement, the oldest labour movement in the world, is second only to the actions of senior Liberal members in the Lindsay campaign, who attempted to smear both the Labor Party and the Muslim community. One wonders if these people have any remorse for their actions. I have yet to hear an apology from Jackie Kelly, who seemed intent on portraying this as some kind of joke.

ITALIAN AFFAIR COMMITTEE

The Hon. MARIE FICARRA [5.47 p.m.]: It was a great honour to attend the twentieth anniversary Italian Affair Committee's gala ball at Club Marconi on Saturday 10 November, representing Barry O'Farrell, the Leader of the New South Wales Opposition. I want to congratulate and thank the committee's President, Mr Pat Sergi, OAM, and his dedicated executive members Roy Mittiga, Tony Labbozetta, Roy Spagnolo, OAM, Tony Zappia, Frank Carioti, Michael Daniele, Tony de Lutiis and Dr Nat Romeo. The ball was well supported in a partisan fashion. The New South Wales Premier, the Hon. Morris Iemma, Senator Concetta Fierravanti Wells, as well as many local members of Federal and State Parliament were in attendance.

From humble beginnings over 20 years ago, this committee and its past members have worked tirelessly to make the Italian Affair Committee a powerhouse fundraising organisation. They have raised an incredible $20 million in 20 years. The committee was formed to support the Spastic Centre of New South Wales and a minimum of 50 per cent of moneys raised is always donated to this excellent cause, with the balance distributed amongst many other worthwhile charities and individuals. Funds raised this year—well in excess of $100,000—will go towards the new $1 million Mittiga Centre at Kingswood. Based at the University of Western Sydney campus, it is a therapy and assessment centre for the disabled. The centre has been proudly named after Joey Mittiga, the young man who has been the inspiration for all the Italian Affair Committee's fundraising efforts.

Joey was born in 1980 and several months later he was diagnosed with cerebral palsy. From 1982 Joey started attending Spastic Centre facilities at Allambie Heights for therapy and assessment, then Mosman for schooling, enduring many four-hour daily return trips. Later Joey was schooled at home by Jim Charlton, a good family friend, and so Joey started walking and talking. Roy and Cathy Mittiga came in contact with many families that could not afford to give their children the support they were providing for Joey. So in 1988 the Italian Affair Committee was formed by the Mittiga family, with Joey as the driving force for his parents and loving sister, Lisa.

Roy Mittiga recruited his good friend Roy Spagnolo and then Fairfield mover and shaker Pat Sergi, as well as Tony Labbozetta, the then President of Club Marconi, three powerful and well-connected community leaders who heralded the start of the first committee. In just four months they raised $750,000. Their original goal of $50,000 has now grown to $20 million. By 1994 they had raised $500,000, and the committee decided to build a new Spastic Centre in Western Sydney to cater for the huge demand in that fast-growing region.

Joey has always managed to motivate others around him to give of their best. Whilst he attended Mater Dei at Camden, through the Raise-A-Smile Foundation an indoor swimming pool complex was built. Named "The Joey Mittiga Pool", it was opened in 2003. Two buses were purchased for "Junction Works", catering for disabled persons and many others with special needs. The annual Joey Mittiga Award for $5,000 was established to support young people with a disability aged 16 to 25 years to assist them pursue their goals and dreams.

Many celebrities attended the ball, including Ray Martin, who hosted the event, entertainers such as Guy Sebastian, John St Peters, Glenn Wheeler, auctioneer extraordinaire, supporters such as Ross Greenwood, Vic Larusso, Jason Morrison, Mark Waugh, Elka Graham, Karl Stefanovic, and many more. Principal sponsors have always included Club Marconi, a loyal contributor from the beginning 20 years ago. This year's ball sponsors included the Navarra Group. I wish to commend Phillip and Sarina Navarra and their son John, who are always giving to their local communities.

Committee members, both past and present, can be very proud of all they have achieved. These selfless Italo-Australians, so thankful for their personal and corporate success stories in Australia, do not hesitate to give back to their country and their local community. Hardworking past committee members include my good friend effervescent Ferdi Domminelli. I wish to commend a fine young Australian, Joey Mittiga, and his family, as well as past and current members of the Italian Affair Committee. Long may the committee continue to prosper, and bring joy, peace and love into the hearts and minds of so many less fortunate than us.

PLANNING LAW REFORM

SANDON POINT DEVELOPMENT

Ms SYLVIA HALE [5.52 p.m.]: Today two significant events have taken place for the planning system in this State. The first was the release by the Minister for Planning, Frank Sartor, of the Government's discussion paper on the latest round of changes it is proposing for the Environmental Planning and Assessment Act. The second event was the decision of Justice Biscoe in the Land and Environment Court to overturn the Minister's approval of the highly contentious Sandon Point development.

Previous reforms of the Environmental Planning and Assessment Act by this Government have drastically reduced environmental protections and prioritised development and ministerial discretion with little regard for the cost to our environment and our heritage. Many communities are now feeling the cost of those reforms, so it is with a great deal of trepidation that we look at the Government's latest plan to gut the environmental protections contained in the Act.

The recommendations contained in the discussion paper will have wide-ranging and significant implications for environmental protections and the residential amenity of communities across the State. Once again the focus is on pushing forward ever more development, ever quicker. In response to the proposals for such a radical overhaul of the planning system, today I called for a parliamentary inquiry into the effectiveness of the State's existing planning laws. It is imperative that there be full community consultation before this latest so-called "reform" proceeds. A parliamentary inquiry will give members of the public, community groups, councils and developers the opportunity to put forward their views.

The discussion paper process, controlled and directed as it is by the Minister and the department, does not give the community confidence that their views will be properly heard and considered, especially when the Labor Party accepts so much money from the property development industry. An open and public parliamentary inquiry will provide an opportunity for a full and frank consideration of the wide range of views about how our planning system should be improved. A parliamentary inquiry will ensure that all views are heard, not just those emanating from large donors to the Labor Party.

It is the strongly held view of the Greens that any further changes to the planning laws must put the community and the environment first. A more welcome event today was the decision of the Land and Environment Court to overturn ministerial approval of a residential development at Sandon Point, near Wollongong. The court found that the planning Minister and the Director General of Planning failed to give consideration to the possible effects of climate change on changing sea levels and flood risks for the coastal development. In his decision in *Walker v Minister for Planning* Justice Biscoe found:

> … the Minister was under an implied obligation to consider whether it [climate change] was relevant and, if so, to take it into consideration when deciding whether to approve the concept plan. The Minister did not discharge that function.

The court has clearly identified the Minister's failure to take climate change seriously when assessing developments like Sandon Point. The fact that the Minister and the director general failed to give any consideration to climate change is inexcusable, and I am pleased that the court has overturned the Minister's decision. This is an important lesson for both the State and Federal Labor governments. Climate change cannot be ignored, and paying it lip-service while continuing with business as usual is no longer an option.

The court referred to the recent report of the Intergovernmental Panel on Climate Change to identify the potential consequences for Australia of ignoring climate change. The decision reinforces the point that governments must take climate change into account when they consider any new development. The decision has significant implications for the Government's continued approval of new coalmines, which add to the greenhouse gasses that are causing climate change and rising sea levels and threatening our coastal communities. The Government must urgently rethink its approach to development in light of the growing evidence that dangerous climate change is fast approaching and urgent action is required. I place on record my congratulations to Jill Walker, the Environmental Defenders Office, and all those in the community who have campaigned against the Sandon Point development.

LAW AND JUSTICE FOUNDATION REPORT "JUSTICE MADE TO MEASURE: NSW LEGAL NEEDS SURVEY IN DISADVANTAGED AREAS"

The Hon. CHRISTINE ROBERTSON [5.56 p.m.]: I draw to the attention of the House the Law and Justice Foundation report titled "Justice Made to Measure: NSW Legal Needs Survey in Disadvantaged Areas". The former New South Wales Attorney General and new Federal member-elect for Macquarie, Bob Debus, launched the report in March last year. The report has ongoing significance with regard to legal aid and access to justice among the disadvantaged in New South Wales. As a Country Labor member of the Legislative Council my duty electorates are Tamworth, Northern Tablelands and Barwon, the latter in particular having a high proportion of indigenous and other groups at a disadvantage in the legal system. My role as Chair of the Standing Committee on Law and Justice also attracts me to the issues raised by the Law and Justice Foundation report.

The report took the form of a survey and findings, focussing on legal needs in six disadvantaged areas in New South Wales—Campbelltown, Fairfield, South Sydney, Newcastle, and two rural areas, Nambucca and Walgett. The major findings of the study were: a relatively high incidence of legal events over a one-year period; some individuals, such as those with a chronic illness or disability, experienced a wide range of legal events; a substantial rate of inaction in response to legal events; traditional legal advisers such as private lawyers, legal service agencies and courts were used rarely; a substantial proportion of people experienced barriers in seeking help; and a high rate of satisfaction with the outcome of events that had been resolved.

It may seem obvious that seeking help is important, but legal awareness and access to help are also important when it comes to people resolving their legal issues. The study showed that people with a legal problem sought advice in just over 50 per cent of cases; however, in only 25 per cent of those cases did respondents seek legal advice from a lawyer or published legal source. The report recommends, among other things, tailored legal education, information, advice and assistance to meet the needs of the disadvantaged, as well as more non-legal professionals referring cases, and improved coordination between different legal services. The general level of legal literacy is revealed in the study as very low, proving an unnecessary barrier to disadvantaged groups in seeking legal redress.

It is obvious from the statistical analysis on our population basis in the socioeconomic indices data produced by the Bureau of Statistics that across country New South Wales there are major areas of socioeconomic disadvantage. It is extremely important to emphasise, as the New South Wales State Government has done, specific services for those areas. The Law and Justice Foundation study, for example, points to the specific needs for these areas upon which the Government must place more emphasis.

[*Time for debate expired.*]

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

Motion agreed to.

The House adjourned at 6.00 p.m. until Wednesday 28 November 2007 at 11.00 a.m.