LEGISLATIVE COUNCIL

Thursday 29 November 2007

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

The President read the Prayers.

JOINT SELECT COMMITTEE ON THE ROYAL NORTH SHORE HOSPITAL

Extension of Reporting Date

The PRESIDENT: I report the receipt of the following message from the Legislative Assembly:

MR PRESIDENT

The Legislative Assembly has considered the Legislative Council's message of 28 November 2007 and has this day agreed to the following resolution:

That this House agrees with the Legislative Council's resolution extending the reporting date for the Joint Select Committee on the Royal North Shore Hospital to Thursday 20 December 2007.

Legislative Assembly
28 November 2007

RICHARD TORBAY
Speaker

DEPARTMENT OF THE LEGISLATIVE COUNCIL

Report

The President tabled the Annual Report of the Department of the Legislative Council for the year ended 30 June 2007.

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

BUSINESS OF THE HOUSE

Precedence of Business

Motion by the Hon. Tony Kelly agreed to:

That on Thursday 29 November 2007 Government Business take precedence of General Business.

GENERAL PURPOSE STANDING COMMITTEE NO. 2

Extension of Reporting Date

Motion by the Hon. Robyn Parker agreed to:

That the reporting date for the reference to General Purpose Standing Committee No. 2 relating to the budget estimates and related papers be extended to the first sitting Thursday in March 2008.

GENERAL PURPOSE STANDING COMMITTEE NO. 5

Extension of Reporting Date

Motion by Mr Ian Cohen agreed to:

That the reporting date for the reference to General Purpose Standing Committee No. 5 relating to the budget estimates and related papers be extended to the first sitting Thursday in March 2008.

PRIVILEGES COMMITTEE

Reports

The Hon. Kayee Griffin tabled the following reports:

(1) Report No. 39, entitled "Draft Constitution (Disclosures by Members) Further Amendment Regulation 2007", dated November 2007, together with correspondence.

(2) Report No. 40, entitled "Citizen's Right of Reply (Mr T H Logan)", dated November 2007.

Ordered to be printed on motion by the Hon. Kayee Griffin.

TABLING OF PAPERS

The Hon. Ian Macdonald tabled the following papers:

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

Attorney General's Department
Department of Corrective Services
Department of Housing
Department of State and Regional Development

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

Aboriginal Housing Office
Legal Aid Commission of New South Wales
New South Wales Board of Vocational Education and Training
Public Trustee
Teacher Housing Authority of New South Wales
Vocational Education and Training Accreditation Board

Ordered to be printed on motion by the Hon. Ian Macdonald.

BUSINESS OF THE HOUSE

Postponement of Business

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

Business of the House Notice of Motion No. 3 postponed on motion by Ms Sylvia Hale.

Government Business Orders of the Day Nos 1 to 4 postponed on motion by the Hon. Tony Kelly.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

The Hon. GREG PEARCE [11.12 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 97 outside the Order of Precedence, relating to an order for papers regarding the integrated ticket project—Tcard—be called on forthwith.

This matter is urgent because yesterday the Auditor-General brought down a report indicating that the Public Transport Ticketing Corporation was relying on the New South Wales State Government's commitment to support operating and financial obligations. This matter is urgent because there is a clear public interest in knowing what is happening with the Tcard project. This matter is particularly urgent given the Auditor-General's report yesterday, in which he recommended that the ticketing corporation conduct a comprehensive review of capitalised costs to ensure that they reflect realisable service potential. That means there is considerable doubt about the $67.1 million of assets and the $66.4 million of liabilities transferred from the Ministry of Transport to the Public Transport Ticketing Corporation.

This matter is of great urgency because after 10 years of promises the public deserves to know why a great city like Sydney does not have an integrated public transport ticketing system. It is urgent because the public and commentators deserve to know why, given the systems operating overseas, such an obviously simple project could not be implemented in New South Wales. This matter is urgent because at least $66.4 million of taxpayers' money appears to be at risk with no adequate explanation about what is happening with the project and the Auditor-General has pointed out a significant problem with the security of those funds and the project itself. I do not intend to take any more time of the House. It is overwhelmingly in the public interest that this matter be dealt with urgently.

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [11.15 a.m.]: Again, the Hon. Greg Pearce is taking this opportunity to make political capital out of this issue. As he pointed out, it has been around for 10 years. The Parliament has already agreed to do away with private members' business today—and this is a private members' issue—so that we can get through the urgent business that we must complete before the end of the year. If the honourable member wanted to debate this issue he should have objected to the motion about private members' business.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 19

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

Noes, 18

Mr Brown	Mr Macdonald	Mr West
Mr Catanzariti	Mr Obeid	Ms Westwood
Mr Costa	Ms Robertson	
Ms Fazio	Mr Roozendaal	
Ms Griffin	Ms Sharpe	*Tellers,*
Mr Hatzistergos	Mr Smith	Mr Donnelly
Mr Kelly	Mr Tsang	Mr Veitch

Pairs

Mr Gay	Ms Della Bosca
Mr Khan	Mr Voltz

Question resolved in the affirmative.

Motion agreed to.

Order of Business

Motion by the Hon. Greg Pearce agreed to:

That Private Members' Business item No. 97 outside the Order of Precedence be called on forthwith.

TCARD INTEGRATED TICKETING SYSTEM

Production of Documents: Order

The Hon. GREG PEARCE [11.21 a.m.]: I move:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution:

(a) all contracts from 2003 onwards relating to the integrated ticketing project (Tcard), including any variations of the contracts, all notes, briefs and correspondence regarding any variation to payment or price, extensions of time or any

disputes in the possession or control of the Ministry of Transport, the Office of the Minister for Transport, RailCorp, State Transit Authority, Sydney Ferries or the Public Transport Ticketing Corporation, but excluding plans, drawings, detailed specifications, technical data and computer programs,

(b) all documents relating to the field trials including proposals for the fare structure for integrated ticketing (Tcard) in the possession or control of the Ministry of Transport, the Office of the Minister for Transport, RailCorp, State Transit Authority, Sydney Ferries or the Public Transport Ticketing Corporation, and

(c) any document which records or refers to the production of documents as a result of this order of the House.

I refer to my earlier remarks in relation to the urgency of this motion. There is an overwhelming public interest in transparency and in understanding what is happening with this long-delayed project. In addition, yesterday's Auditor-General's report indicates that the Public Transport Ticketing Corporation is able to continue on a going-concern basis only with the Government's commitment to support it. The liabilities in that company are $66.4 million. The Auditor-General has recommended that that company conduct a comprehensive review of capitalised costs to ensure they reflect realisable service potential.

The Government may raise the issue of a potential legal dispute in relation to this matter. No current legal proceeding is in place. As honourable members know, in relation to orders for papers, if the Government claims privilege there is a well understood and practised process to deal with legal professional privilege. That will be respected in relation to anything that may arise. However, as I said, there is no current litigation in relation to the matter. The motion has been carefully drafted to limit the amount of paper to be provided and to ensure that the cost to taxpayers of complying with this motion is kept to the absolute minimum. In order to ensure that the business of the House can proceed, I ask honourable members to support the motion.

The PRESIDENT: Order! If the level of conversation among members in the President's gallery is not reduced, I will have no compunction in having the area cleared. The attention of members listening to debate should not be distracted by constant interruption from other members in the President's gallery.

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [11.22 a.m.]: I am surprised that the Hon. Greg Pearce would be so reckless as to move a motion about such a legally and commercially sensitive issue at such a sensitive time in the life of the contract. Honourable members are clearly aware that a contract between the New South Wales Government and the ERG subsidiary Integrated Ticketing Solutions Limited [ITSL] is on foot to deliver an integrated ticketing system in Sydney. This imposes serious obligations on the parties to the contract. Honourable members are also clearly aware that the Public Transport Ticketing Corporation [PTTC], the corporation set up to manage the contract, has issued notices under the cure and termination provisions of the contract to Integrated Ticketing Solutions Limited.

As the Minister for Transport announced last Friday, Integrated Ticketing Solutions Limited now has 20 days to either make good its defaults or work diligently to remedy those defaults and provide a satisfactory remedial plan to government. Integrated Ticketing Solutions Limited must respond by 3 December 2007, after which the Public Transport Ticketing Corporation will consider the options under the contract. It is important for honourable members to reflect where we are at this critical stage of the process. We now have 20 days for Integrated Ticketing Solutions Limited to make good its default or work diligently to remedy those defaults and provide a satisfactory remedial plan to the Government. Clearly, the contract is on foot and we are in the process of trying to resolve some of the issues. The critical date is 3 December, by which date the company must respond. Of course, then the Public Transport Ticketing Corporation considers its options under the contract. How reckless would it be for this call for papers to grab all these documents and drag them into this place?

We are well aware of the history of the Opposition with its reckless disregard for commercially sensitive contracts. Remember its brilliant plan on the Cross City Tunnel? Remember the Coalition's solution to the Cross City Tunnel issue was to tear up the contract, in the words of the former Leader of the Opposition? That is how this Coalition Opposition treats important, sensitive commercial issues in this place. There is potential for serious prejudice—and I emphasise this, particularly to the crossbenchers—to the Government's position if privileged legal and commercial advice is made public at this stage. I emphasise that there is big potential for serious prejudice to the Government's position and therefore to the taxpayers of this State if commercially and legally sensitive material or privileged and legal advice is made public at this stage.

The Government has made it clear that it is working to protect the interests of taxpayers and commuters in New South Wales. We have been working with the contractor to get the project back on track. The time has come for the Government to enforce its rights under the contract. The Government has always been upfront about the problems with the project and this is a straightforward contractual process following Integrated

Ticketing Solutions Limited's failure to deliver to date. Given that, there are formal legal processes under way as we speak. It would be irresponsible for this House to recommend the release of these documents at this time and it may severely prejudice the interests of the taxpayers of this State. I am disappointed the honourable member is seeking, yet again, to take political advantage. That is not in the best interests of the taxpayers of the State.

Reverend the Hon. FRED NILE [11.27 a.m.]: The motion moved by the Hon. Greg Pearce states:

That, under standing order 52, there be laid upon the table of the House within 14 days of the date of passing of this resolution:

(a) all contracts from 2003 onwards relating to the integrated ticketing project (Tcard), including any variations of the contracts, all notes, briefs and correspondence regarding any variation to payment or price, extensions of time or any disputes in the possession or control of the Ministry of Transport, the Office of the Minister for Transport, RailCorp, State Transit Authority, Sydney Ferries or the Public Transport Ticketing Corporation, but excluding plans, drawings, detailed specifications, technical data and computer programs,

(b) all documents relating to the field trials including proposals for the fare structure for integrated ticketing (Tcard) in the possession or control of the Ministry of Transport, the Office of the Minister for Transport, RailCorp, State Transit Authority, Sydney Ferries or the Public Transport Ticketing Corporation, and

(c) any document which records or refers to the production of documents as a result of this order of the House.

I ask whether there are implications for the taxpayers of this State if that blanket motion under Standing Order 52 is agreed to. The Minister has stated that the Government is in a very delicate stage with the contractor because it has issued a notice of intention to terminate the contract. The contractor has until 3 December to respond to that notice with an adequate plan to remedy its defaults but the Government is not sure what the company's response will be.

I am advised—and I believe the advice to be accurate—that if all the documents are made public there is potential for serious prejudice to the Government if sensitive legal and commercial information in them is also made public. If there is a court case all the Government's documents will be in the hands of the company and will be made public. That will give a major advantage to the contractor in any further negotiations, particularly if compensation or damages arise from this complicated situation. It may be appropriate to make some documents public but commercially sensitive documents should not be made public at this stage. The Minister's office has supplied me with a comprehensive list of items under Standing Order 52. Indeed, I was surprised at the detail of the list. Therefore, I move:

That the motion be amended as follows:

Omit paragraphs (a) and (b) and insert instead:

(a) the following documents in the possession, custody or control of the Minister for Transport, or any agency under the administration of the Minister for Transport:

The contract between the Government and ITSL for the integrated ticketing project (Tcard) including any variations to the contract to payment or price above $500,000 or extensions of time, including the following:

No.	Document
1.	Integrated Ticketing System Project Agreement
2.	Schedule 1 to the Integrated Ticketing System Project Agreement—Milestone Dates and Milestone Events
3.	Schedule 2 to the Integrated Ticketing System Project Agreement—Completion Pre-Conditions
4.	Schedule 3 to the Integrated Ticketing System Project Agreement—Form of Certificate of Completion
5.	Schedule 4 to the Integrated Ticketing System Project Agreement—Variation Order
6.	Schedule 5 to the Integrated Ticketing System Project Agreement—Payments for Failure to Meet Key Performance Indicators
7.	Schedule 6 to the Integrated Ticketing System Project Agreement—Deed of Appointment of Expert
8.	Schedule 7 to the Integrated Ticketing System Project Agreement—Expert
9.	Schedule 8 to the Integrated Ticketing System Project Agreement—Consumer Price Index
10.	Schedule 9 to the Integrated Ticketing System Project Agreement—Key People
11.	Schedule 10 to the Integrated Ticketing System Project Agreement—Fixed Charge

12. Schedule 11 to the Integrated Ticketing System Project Agreement—Usage Charge
13. Schedule 12 to the Integrated Ticketing System Project Agreement—Options
14. Schedule 13 to the Integrated Ticketing System Project Agreement—Invoice Substantiation Data
15. Schedule 14 to the Integrated Ticketing System Project Agreement—Parent Company Guarantee
16. Schedule 15 to the Integrated Ticketing System Project Agreement—Dates for Completion Payment on Completion
17. Schedule 16 to the Integrated Ticketing System Project Agreement—Escrow Agreement
18. Schedule 17 to the Integrated Ticketing System Project Agreement—Contractors Deed of Novation
19. Schedule 18 to the Integrated Ticketing System Project Agreement—Schedule of Prices and Work Rates
20. Schedule 19 to the Integrated Ticketing System Project Agreement—Operators
21. Schedule 20 to the Integrated Ticketing System Project Agreement—Delay Costs
22. Schedule 21 to the Integrated Ticketing System Project Agreement—Subcontractors
23. Schedule 22 to the Integrated Ticketing System Project Agreement—Part A Sublicence Agreement
24. Schedule 22 to the Integrated Ticketing System Project Agreement—Part B Sublicence Agreement
25. Schedule 23 to the Integrated Ticketing System Project Agreement—ERG Technology Termination Fee
26. Schedule 24 to the Integrated Ticketing System Project Agreement—Acceleration Direction
27. Schedule 25 to the Integrated Ticketing System Project Agreement—SITS Technology
28. Schedule 26 to the Integrated Ticketing System Project Agreement—ITS Assumptions
29. Schedule 27 to the Integrated Ticketing System Project Agreement—Net Present Value
30. Schedule 28 to the Integrated Ticketing System Project Agreement—Confidentiality Undertaking
31. Schedule 29 to the Integrated Ticketing System Project Agreement—Deed of Assurance
32. Schedule 30 to the Integrated Ticketing System Project Agreement—Confidentiality Undertaking
33. Integrated Ticketing System Commercial Rights Deed
34. Variation Agreement 1 to the Integrated Ticketing System Project Agreement
35. Amending Agreement 2 to the Integrated Ticketing System Project Agreement
36. Variation Order #1 Take-up of Option 39 for RailCorp Equipment
37. Variation Order #9 School Student Travel Scheme
38. Variation Order #12 Tag on/Tag off

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [11.33 a.m.]: The Government supports the amendment moved by Reverend the Hon. Fred Nile. The Government has been up-front about problems with the project. Notices that have been issued to Integrated Ticketing Solutions Limited are part of the straightforward process following the continued failure of Integrated Ticketing Solutions Limited to deliver to date. These steps were taken under the provisions of the contract and are right and proper. The Government has made it clear that it is working to protect the interests of the taxpayers and commuters of New South Wales and has been working with the contractor to get the project back on track.

There is clearly public interest in the history and management of the contract. However, it is difficult to see where the public interest lies in exposing the taxpayers of New South Wales to unnecessary risk by making public the legal and commercial advice to the Government. The contract documentation, project agreement, two amending agreements and material variations to the contract relating to payment prior to extension of time will show that the Government has always acted properly within the bounds of the contract and worked with Integrated Ticketing Solutions Limited to get the project back on track. The Public Transport Ticketing Corporation now awaits Integrated Ticketing Solutions Limited's response to the notice that has been issued, which requires Integrated Ticketing Solutions Limited to either remedy its default or work diligently towards a remedy and submit a satisfactory remedial plan.

The Hon. ROBERT BROWN [11.35 a.m.]: I support the amendment. In previous discussions with the Opposition on Standing Order 52 calls for papers, on a number of occasions the Opposition has agreed to ameliorate the breadth of the request to try to be specific as possible. Given the statement by the Minister for Roads, and Minister for Commerce concerning the particular timing of the call for papers, perhaps a precautionary principle is to be followed here. If the Government has agreed that the documents listed will not damage its ability to negotiate properly with the contractors and thus avert any potential problems with disclosure of information that may damage its ability to negotiate, perhaps the Opposition will see this as a good start and may even support the amendment.

The Hon. GREG PEARCE [11.36 a.m.], in reply: I thank honourable members for their comments on the motion. The suggestion of the Minister for Roads, and Minister for Commerce that there would be serious prejudice in the release of privileged commercial and legal advice at this stage is completely wrong and misleading. As honourable members know, and certainly Reverend the Hon. Fred Nile is an expert on this, the documents that will be produced in 14 days time will include documents on which it will claim privilege. Any documents of any concern will be privileged and will be kept confidential, even if there is a dispute on those documents, if there is anything that is likely to prejudice the interests of the taxpayer. So that is a spurious argument by the Minister.

We have been through this process on a number of occasions where the Government has not acted in the best interests of the community and the taxpayer. Reverend the Hon. Fred Nile is well aware of the importance of public scrutiny of major issues, such as the Cross City Tunnel, the Lane Cove Tunnel and the Millennium trains. The actions of this House in bringing forward documents and information for responsible public scrutiny led to a much better resolution in the interests of the public. Matters that could have dragged on for a long time were resolved. Inquiries were held—some chaired by Reverend the Hon. Fred Nile—to show what had happened and ensure that matters were dealt with and resolved.

I do not want to take up any further time on this matter. The Opposition will support the amendment but only on the basis that insufficient information is being produced at this stage. The Opposition is very disappointed that the amendment was drawn up by the crossbenchers with the Government, but the Opposition was not given any indication that the amendment would be moved. In terms of the operations of this House, it is a great disappointment that such a significant amendment was pre-prepared but the crossbenchers did not think it appropriate to discuss it with the Opposition.

Mr Ian Cohen: Some of the crossbenchers.

The Hon. GREG PEARCE: Some of the crossbenchers. I apologise to the Greens. There is an overwhelming public interest in this matter. Obviously the Opposition, and I am sure the crossbenchers, will come back to this matter as soon as we can if there is a necessity to seek further material. I think that will be the case when we see what material is produced pursuant to the order. I commend the motion to the House.

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

Amendment agreed to.

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

Motion as amended agreed to.

ANTI-DISCRIMINATION AMENDMENT (EQUAL OPPORTUNITY IN PUBLIC EMPLOYMENT) BILL 2007

Second Reading

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [11.41 a.m.], on behalf of the Hon. John Della Bosca: 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.

Part 9A of the Anti-Discrimination Act 1977 has two objects. The first is to eliminate and ensure the absence of discrimination in public sector employment on the grounds of race, sex, marital status and—as stated in the current Act—"physical impairment". The second is to promote equal employment opportunity in public sector agencies for women, members of racial minorities and—as stated in the current Act—"physically handicapped persons". Section 122J of part 9A requires each public sector agency to prepare and implement an equal employment opportunity management plan to achieve the objects of part 9A. Section 122L of the Act also requires each agency to report annually to the Director of Equal Opportunity in Public Employment on the programs undertaken to eliminate discrimination and promote equal employment opportunity, the results achieved and the proposed activities for the following year. Public sector agencies are also required under the annual reporting legislation to report on equal employment opportunity strategies, outcomes and statistics in their annual report.

The internal government red tape review, stage 1, recommended that agencies be required to report on equal employment opportunity outcomes only once in their annual reports, instead of being required to report in both their annual report and separately to the Director of Equal Opportunity in Public Employment. The bill implements this recommendation. It merely removes the duplicative requirement to report on equal employment opportunity outcomes to the Director of Equal Opportunity in Public Employment. This will lead to administrative savings for agencies without affecting their substantive obligations to prepare and implement management plans under the Act. The bill does not affect the functions of the Director of Equal Opportunity in Public Employment. The director will continue to evaluate the effectiveness of management plans and can refer a matter to the Anti-Discrimination Board of New South Wales if he has any concerns.

The bill also makes minor changes to make terms used in part 9A consistent with the rest of the Act. The term "physically handicapped persons" is replaced by "persons who have a disability". The reference to discrimination on the ground of "physical impairment" in part 9A is also replaced with a reference to discrimination on the ground of "disability". This corrects an oversight from when discrimination on the ground of physical impairment was previously changed to discrimination on the ground of disability. I commend the bill to the House.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.41 a.m.]: I lead for the Opposition in debate on the Anti-Discrimination Amendment (Equal Opportunity in Public Employment) Bill 2007. I indicate at the outset that the Opposition does not oppose the bill. The legislation is simple in its context in that it provides a change in terminology. It also indicates a growing trend and acceptance within the community that some of the language that is used in legislation, and therefore is in common usage within the community, is no longer consistent with people's views and their growing understanding of issues such as equal employment opportunity and antidiscrimination in the workplace.

The object of the bill is to amend the Anti-Discrimination Act to remove the requirement for agencies to report directly to the Director of Equal Opportunity in Public Employment on equal employment opportunity matters, and to replace references in the Act to physically handicapped or physically impaired persons with references to persons who have a disability. The latter amendment is an important part of the bill in terms of the evolution of our language. Members may recall that a couple of years ago the Hon. John Della Bosca, in his continuing industrial relations role, introduced an education campaign in relation to disability. The campaign's title, Don't DIS my ABILITY, links the commonly used word "dis" with the word "ability", consistent with the evolution of community understanding that people who have a physical handicap should be regarded first as people who have abilities. The legislation recognises that people who have a disability should be recognised as people first. In that context, the legislation endeavours to enlighten our understanding of the difficulties faced by people who are unfortunately stricken with a disability.

The reform set out in the legislation is the result of an internal government review. Stage 1 of that review recommended that agencies be required to report on equal employment opportunity outcomes only once in their annual reports. I believe that requirement recognises significant improvements in equal employment opportunity across the public sector. That is not to say, however, there is not room for further improvement. The Minister for Industrial Relations would be well aware that the Public Service Association conducted a survey of WorkCover employees—an area within his portfolio—and that 80 per cent of the employees surveyed indicated they had been subjected to harassment in the workplace. That is an absolutely frightening statistic.

In other words, at WorkCover, which is the workplace policeman of the public and private sectors, harassment is rife. It is therefore hypocritical of the Government to speak about the advances it has achieved in the workplace, particularly focusing on unacceptable work practices in the private sector. Recently we have heard of harassment in the workplace in relation to security personnel at Governor Macquarie Tower. Under this Government nurses have been harassed, and we continue to hear about the harassment of nurses from those who speak out. The Government has one rule for itself and a different rule for others. It is quite happy for private sector workers to speak out about unfair and unacceptable work practices and discrimination, but God help people in the public sector who speak out about similar unacceptable work practices.

The Government's approach to these problems shows glaring hypocrisy. These legislative changes, which affect the entire workforce and community, are part of an educative program to ensure that those who have a disability are recognised as people first. It is a shame that the Government introduces legislation to assist

people in the workplace who have a disability, but says and does nothing about people who speak out about discrimination and harassment in workplaces, particularly the Government's workplaces. Regrettably, we do not hear a word from the Government about that.

Dr JOHN KAYE [11.47 a.m.]: The Greens support the Anti-Discrimination Amendment (Equal Opportunity in Public Employment) Bill 2007. Over the last couple of decades the public sector has set the pace in creating standards of equality of opportunity in the workplace, and has played an important role in making discrimination unacceptable and its cures acceptable and to be expected. Equal opportunity is extremely important within any employment environment. It is the only way we can hope to overcome the barriers associated with disability and create an inclusive society. It is a basic human right that every person, regardless of ability or disability, should be included within our society and be able to experience a workplace in which barriers are not created to their advancement or full participation. Equal opportunity is an excellent mechanism by which to overcome those barriers.

The bill contains two major provisions. First, it is claimed that the measure will remove double reporting on equal employment opportunity strategies and outcomes. It has been put that double reporting occurs in the annual report of the public sector agency to the Director of Equal Opportunity in Public Employment and also in the agency's annual report. The Minister said in the other House that the same information was reported in both documents.

The Greens are concerned that there may be some loss of information that is available to the public on equal employment opportunity strategies and outcomes within public sector agencies. We seek from the Minister in his reply an assurance that the information that will be available in the annual reports of each and every agency that is covered by this legislation will be absolutely identical to that which is currently included in their reports to the Director of Equal Opportunity in Public Employment. The Greens want an assurance that there will be no loss of information about activities in equal opportunity in the public sector as a result of the passage of this bill.

Too often the term "red tape" is used to conceal agendas aimed at reducing regulation and public reporting. I am not saying that that necessarily pertains in this particular case but over the past two decades the term "red tape", when used in public debate, often disguised an agenda to deregulate and allow public and private-sector agencies to pursue activities contrary to the public interest. We hope that is not the case in this instance.

The legislation also replaces references to "physically handicapped persons" with the expression "people with a disability". That provision widens the net to include people with psychological and intellectual disabilities more appropriately dealt with by equal opportunity measures. The Minister in the other House made clear that the bill corrected an oversight in the drafting of the Act that restricted the grounds of discrimination to physical impairment, thus covering people who have other kinds of impairments and disabilities. The Greens support the bill.

Reverend the Hon. FRED NILE [11.52 p.m.]: The Christian Democratic Party supports the Anti-Discrimination Amendment (Equal Opportunity in Public Employment) Bill 2007. The bill is mainly an administrative measure but one very important provision replaces all references to the term "physically handicapped persons" in part 9A of the Act with the description "persons who have a disability". The Christian Democratic Party is very much in favour of that improvement because the term " physically handicapped persons" is undefined and outdated.

Part 9A of the Act has two objects. The first is to eliminate and ensure the absence of discrimination in employment on certain grounds in public sector agencies. The second is to promote equal employment opportunity for certain target groups in public sector agencies. Section 122L of the Act requires each public sector agency to report annually to the Director of Equal Opportunity in Public Employment on the programs undertaken to eliminate discrimination and promote equal employment opportunity, the results achieved and the proposed activities for the following year. The bill merely removes the duplication required to report on equal employment outcomes to the Director of Equal Opportunity in Public Employment. This will lead to administrative savings for agencies.

I also commend the Hon. Kristina Keneally, Minister for Ageing, and Minister for Disability Services, for the large packet of material dealing with Disability Day to be held on Monday 3 December 2007. Disability Day will focus on providing opportunities for people with disabilities to have access to work. I commend the Minister for the excellent educational and promotional kit that all members have received.

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [11.55 p.m.], in reply: I thank honourable members for their contributions to the debate. The Government supports the recommendations of the internal government red tape review. The review stated that the public sector agencies should only be required to report on equal opportunity outcomes once in their annual report, removing the requirement for agencies to also report on equal employment opportunity matters to the Director of Equal Opportunity in Public Employment. This will lead to administrative savings in agencies. Importantly the bill does not affect agencies' obligations to prepare and implement equal employment opportunity management plans. The bill does not change the role of the Director of Equal Opportunity in Public Employment but makes minor changes to render the terms used in part 9A consistent with the rest of the 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.

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

Third Reading

Motion by the Hon. Tony Kelly agreed to:

That this bill be now read a third time.

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

CRIMES (DOMESTIC AND PERSONAL VIOLENCE) 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) [11.56 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to announce the Crimes (Domestic and Personal Violence) Bill 2007. The Government is always vigilant in its quest to stamp out domestic violence and to improve the criminal justice system. This bill improves upon and enhances the initiatives that were introduced in March this year. Far too many women and children are victims of violence at the hands of those they have a domestic relationship with and this Government is committed to ensuring that the legislation governing this area is progressive and forward thinking and provides the best possible protection.

The initiatives in this bill were part of this Government's commitment to the people of New South Wales that if it were re-elected domestic violence would play a prominent part in legislative reform. The initiatives in the bill are specifically linked to the State Plan priority to address domestic and family violence. It is well recognised that domestic violence is difficult to detect and investigate—occurring, as it generally does, within the privacy of the home. Research has indicated that 57 per cent of Australian women have experienced some level of physical or sexual harm over their lives. The legislative reforms are aimed at reducing stress and trauma for victims of domestic violence when progressing a matter through the criminal justice system and ensuring a clear statement is made about the aggravated nature of an offence of violence that is committed in the context of a domestic relationship.

Violence against women directly affects the victims, their children, their families and friends, employers and co-workers. There can be far-reaching financial, social, health and psychological consequences. Whilst the human impact of domestic violence is incalculable, a study in 2004 by the Office for the Status of Women estimated the total cost per annum of domestic violence in Australia to be $8.1 billion. This estimate includes the costs of pain and suffering, health costs and long-term productivity costs.

The Australian Bureau of Statistics estimates that approximately one in three or 33 per cent of women have experienced sexual violence at some stage in their lives since the age of 15. The Women's Safety Survey found that 24 per cent of women who had experienced violence at the hands of their current partner in the last 12 months were currently living in fear. Eleven per cent of women who had experienced violence by a previous partner were also currently living in fear. Significantly, the bill creates a new

stand-alone Act for apprehended violence orders and associated domestic and personal violence issues. Creating a separate Act gives full recognition to the seriousness of violence against women and children.

Many other States and Territories have designated Acts for protection orders, restraining orders and breaches. These laws have been regarded as easy to find and user friendly for both police and practitioners. The proposed stand-alone Act will have the benefit also of a clearly stated and prominent objectives clause and a readily accessible index. The separate Act will create a one-stop legal manual for practitioners and will mean that the Act is easier to amend in the future if amending is necessary. It will now be easier for women and children to obtain apprehended violence orders [AVOs].

Under the reforms victims will automatically be protected by an apprehended violence order if their alleged attacker is charged with certain serious personal violence offences. The automatic apprehended violence orders will be extended to all victims in these types of cases, irrespective of whether they are involved in a relationship with the person. The defendant will not be entitled to contest the order in court until the concurrent criminal charges have been finalised. This will spare victims of violence the trauma of being cross-examined at the hearing for an apprehended violence order as well as at the hearing of the criminal charges.

The reforms will also ensure children of domestic violence victims are better protected. Previously, when a victim of domestic violence took out an apprehended violence order, the children were not necessarily included on the order. Under the new changes the presumption will be that children are included on the victim's apprehended violence order unless there are good reasons for them not to be. This will ensure that the focus of all parties will be on the best interests of the child and it will guarantee that the safety of the child and victim is taken into consideration.

This bill also introduces a new offence of domestic violence to help identify repeat offenders. Currently offences of violence such as common assault do not specify whether the offence was committed in a domestic situation, which can make it difficult to track habitual offenders. Being convicted of the new offence of domestic violence would leave a permanent stain on a person's record and would be readily identifiable by a sentencing court or a court making a bail determination. Other changes to domestic violence laws include allowing police to search for a greater range of potential weapons at premises where a domestic violence offence has occurred, and giving police the power to demand the name of a person suspected of being the subject of an AVO.

I now turn to the detail of the bill. The object of the bill is to repeal and re-enact part 15A of the Crimes Act 1900 as a principal stand-alone act, with some modifications. The bill makes a number of modifications to the current provisions contained in part 15A of the Crimes Act 1900. The new provisions will enable a charge in respect of an offence to specify whether the offence is a domestic violence offence as defined in the bill. Further, where a person has been found guilty of a domestic violence offence a criminal court will be able to direct that the person's criminal history records that the offence was a domestic violence offence. In addition, the court can direct that similar records be made on a person's criminal history in respect of domestic violence offences that were previously committed.

The bill also will require a court, when making an apprehended domestic violence order for an adult or an interim apprehended domestic violence order for an adult, to include any child with whom the adult has a domestic relationship as a protected person under the order, unless there are good reasons for not doing so. Further, a court will be required to make an interim apprehended violence order at the time the accused person is charged with the offence to protect a victim of a serious personal violence offence. The bill will incorporate also the offence of stalking or intimidation with the intention of causing someone to fear physical or mental harm, currently contained in section 545AB of the Crimes Act 1900.

The application procedures and provisions with respect to apprehended violence order proceedings will also be incorporated in the new bill, rather than merely stipulating that part 6 of the Local Court Act 1982 applies, as is currently the case. The bill also amends the Law Enforcement (Powers and Responsibilities) Act 2002 to enable a police officer to require a person to disclose his or her identity if the police officer reasonably suspects that the person is the subject of an apprehended violence order.

The bill further amends the Law Enforcement (Powers and Responsibilities) Act 2002 to expand the range of dangerous implements that a police officer may search for in a dwelling, provided that the police officer reasonably believes that they have been used or may be used to commit a domestic violence offence. The bill also consequentially amends other Acts and Regulations. Violence is unacceptable in all its manifestations, and the Government has an indefatigable commitment to doing all it can to prevent its occurrence and lessen the impact it has when it does occur. I commend the bill to the House.

The Hon. JOHN AJAKA [11.57 a.m.]: The Crimes (Domestic and Personal Violence) Bill 2007 seeks to repeal and re-enact part 15A of the Crimes Act 1900 with modifications as a principal Act. The bill aims to improve the response of the criminal law to instances of domestic and personal violence, the victims of which are mainly woman and children. The Opposition does not oppose this bill. The nature of domestic and personal violence is such that it is prevalent in intimate and family relationships. This makes prevention, detection and prosecution of domestic and personal violence-related offences a difficult task. The Opposition recognises the need to address the growing problem of such violence in personal and domestic relationships.

The bill makes modifications to part 15A of the Crimes Act 1900, which include enabling the charge in respect of an offence to indicate whether it is a domestic violence matter. Such an amendment is ideal as it allows the court to readily recognise habitual offenders and deal with them accordingly. Furthermore, section 11 of the bill requires the courts in criminal proceedings where a person has been found guilty of a domestic violence offence to direct that a recording be made in the person's criminal record that the offence was a domestic violence offence and also to direct that similar recordings be made in relation to domestic violence offences previously committed by that person. The clauses 38 and 41 also require the court when making an apprehended domestic violence order or interim apprehended domestic violence order for an adult to include as

a protected child under the order any child with whom the adult has a domestic relationship, unless there are good reasons for not doing so.

This is in line with the concept that the best interests of the child must always be of paramount concern. We recognise the strain such an order would have on the relationship between the adult and the child. However, the need to protect children far outweighs any prejudice that may arise from such an order. Proposed section 40 of the bill requires the court when dealing with a person charged with a serious personal violence offence to make an interim apprehended violence order to protect the victim of the alleged offence. This enables the court to ensure that further personal violence does not eventuate and that victims of an offence are adequately protected. Proposed section 13 of the bill effectively incorporates the offence of stalking and intimidation with the intention of causing someone to fear physical or mental harm. This provision recognises the importance of prosecuting non-physical offences, such as I have just referred to, and the need to respond to both physical acts of domestic violence and those of a psychological and mental kind. The applications, procedures and provisions for apprehended violence order proceedings will now be regulated by this legislation rather than part 6 of the Local Courts Act 1982.

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

QUESTIONS WITHOUT NOTICE

SURVEILLANCE DEVICES EMERGENCY WARRANTS

The Hon. MICHAEL GALLACHER: My question without notice is addressed to the Attorney General. Does the Attorney General recall his comments on the Opposition's amendment to clause 33 (1) and (2) of the Surveillance Devices Bill 2007 to reduce the bill's proposed duration of five business days for emergency warrants to two business days, where he claimed:

> Exactly the same circumstances as apply to emergency provisions under the current law will operate under the new law. To that extent there is no change.

Did the Attorney General mislead the House, given he failed to mention that, unlike clause 33 of the bill, the Listening Devices Act emergency provisions in section 5 do not authorise police to use a surveillance device to do acts that they could be authorised to do by a surveillance device warrant, such as the entry, by force if necessary, onto or into a person's premises or vehicle?

The Hon. JOHN HATZISTERGOS: No.

RICK FARLEY SOIL CONSERVATION RESERVE

The Hon. MICHAEL VEITCH: My question without notice is directed to the Minister for Lands. What is the Iemma Government doing to acknowledge the late Rick Farley and his far-sighted contribution to soil conservation and reconciliation?

The Hon. TONY KELLY: The late Rick Farley left an indelible impression on national life and was well known to and respected by both sides of the House through his advocacy for farmers, soil conservation, environmental management and reconciliation with indigenous Australians. At the time of his tragic death in May last year, Rick had achieved far more than most of us could dream. A staffer in the Whitlam Government before heading the Queensland Cattlemen's Union, Rick Farley then achieved national prominence with the National Farmers' Federation. He played a pivotal role in establishing the National Soil Conservation Program, the forerunner to the National Landcare Program, and was later a member of the Council for Aboriginal Reconciliation. In honour of Rick's achievements, it gives me great pleasure to advise the House of the creation of the Rick Farley Soil Conservation Reserve.

I acknowledge the presence of Linda Burney in the visitors' gallery. The 12,270 hectare reserve is adjacent to the Mungo National Park in the far west of New South Wales at the centre of the Willandra Lakes World Heritage area. It contains artefacts recording continuous human occupation stretching back well over 40,000 years. European settlement has taken its toll on the national landscape, but since the creation of national parks in 1979 the impact of grazing animals has declined, the soil has had a chance to stabilise and vegetation started to regenerate. Honourable members would be able to appreciate why this location is fitting for a reserve

named in honour of Rick Farley. The area is steeped in the history of the great themes that Rick devoted his life to: farming, sustainable land use, soil conservation, indigenous culture and reconciliation.

This brings me to one of Rick's greatest achievements. Rick and his close friend Philip Toyne of the Australian Conservation Foundation persuaded the Hawke Government and the Opposition to adopt a bipartisan approach to soil conservation and land degradation control with the establishment of the National Soil Conservation Program. Rick was also a close friend of the present Commissioner of the Soil Conservation Service, Warwick Watkins. This friendship was forged through their joint commitment to the soils and lands of the nation, as they collectively developed the early framework and programs of the National Soil Conservation Program. It was through the pioneering work of people like Rick that the focus on soils as the key to the management and protection of the landscapes was given its rightful prominence.

Rick's passionate commitment to the land was linked to his other great belief in indigenous reconciliation. He believed that the future of the Australian environment depended on cooperation between indigenous Australians, European Australians and all the migrant groups that followed. Sharing many of his beliefs was his wife and love of his life, Linda Burney, the first indigenous member of the New South Wales Legislative Assembly and the Minister for Fair Trading, Youth and Volunteering. As I said, Linda is in the gallery today. Linda, as a friend and parliamentary colleague, I am honoured to make this announcement in your presence. It is a mark of the Government's respect for Rick's life works and his memory that we create the Rick Farley Soil Conservation Reserve. It is a poignant tribute to Rick Farley, preserving his name forever and the memory of the countless generations of indigenous Australians who cared for the land before us and for all those who will continue their stewardship of this most valuable resource into the future. I am sure all members of the House and the wider community will applaud the creation of the Rick Farley Soil Conservation Reserve.

The Hon. DUNCAN GAY: I applaud the Government on the creation of the Rick Farley Soil Conservation Reserve. The Opposition was not aware of the proposal. If the Minister for Lands had made a ministerial statement on the matter, the Opposition would have been happy to support the initiative and its implementation.

LOCAL TRAFFIC COMMITTEE GUIDELINES REVIEW

The Hon. DUNCAN GAY: My question without notice is addressed to the Minister for Roads. Does the Minister recall telling the House more than four weeks ago that a review into the Roads and Traffic Authority guidelines for local traffic committees, which ban the public from attending committee meetings, was still ongoing more than two months after the review began? Could the Minister inform the House why it has taken more than three months to review this clause in the Roads and Traffic Authority's guidelines for local traffic committees? Will the Minister inform the House when the review will be completed?

The Hon. ERIC ROOZENDAAL: The review has been completed. The advice I have received is that the Roads and Traffic Authority is currently writing to councils in relation to the finalisation of that review.

CHINA AND INDIA BUSINESS MISSION

Ms LEE RHIANNON: I direct my question to the Minister for Mineral Resources. Further to Premier Iemma's report to Parliament that BHP Billiton and other coalmining companies joined the Minister on his recent mission to India and China and the Minister's comments on this visit, can he expand his comments by informing the House which coal companies were part of the delegation? Who were the representatives that accompanied him on this visit? With whom did he and these companies meet? Were the negotiations successful and what deals were struck? Did he provide any guarantees as to when the third Newcastle coal loader will be completed and, if so, what were those guarantees? Did he promote New South Wales renewable energy efficiency technology on his visit? Were any contracts concluded?

The Hon. IAN MACDONALD: I will deal with the last point first. Yesterday I explained to the House that part of the mission was to promote New South Wales clean coal technology development. We certainly did that. As I pointed out yesterday, we signed a memorandum of understanding with the Huaneng group, which is China's largest electricity provider and a member of the FutureGen alliance. That alliance is involved in a major international project for the establishment of a significant commercial plant utilising clean coal technology in the United States in 2011. Huaneng is also building a project at Tianjin called GreenGen, which is a 250 megawatt integrated gasification combined cycle plant that will be connected to oil fields offshore of Tianjin utilising a greenfield site. I also pointed out yesterday the great work that the New South Wales

Government is doing in this area, together with Delta, the Australian Coal Association and the CSIRO, with the establishment of a carbon capture project at Munmorah, to be opened next year.

It is a pilot plant using chilled ammonium processes. The plant will open; it will separate the carbon; it will prove the CSIRO technology and, as I have pointed out, it will then take it a step further in 2009 with the development of a $150-million demonstration plant, which will not only capture the carbon but also store it: it is a sequestration project as well. I pointed out what we were doing in this area. I also pointed out the ultra-clean coal technology that is being pursued by Felix Resources at Cessnock, which the Government has assisted with a substantial grant of $1.9 million. It uses far cleaner coal burning processes.

I pointed out that we would welcome partnerships in clean coal technology development. They pointed out that over the past two years they have closed 200 very low-efficiency plants to try to cut back on carbon emissions. Those plants are in the order of 20 to 25 per cent efficient and their new plants will be using far more modern, far more efficient processes to reduce carbon. China has embarked on a number of strategies to try to offset its carbon emissions, including the building of large dams. Of course, the Three Gorges Dam is now one of the most significant dams in China. The cement does produce some emissions, but there are no emissions after it has been finalised. That is another of China's strategies to reduce carbon. It is also talking about nuclear power and building nuclear plants. Of course, New South Wales does not support nuclear plants.

I also pointed out that in New South Wales we have a forestry abatement scheme—an offset scheme and the world's first—and we have been able to secure investment from Tokyo Electric Power. [*Time expired.*]

COURT SERVICES AND PERFORMANCE

The Hon. GREG DONNELLY: My question without notice is directed to the Attorney General. What is the latest information regarding the performance of New South Wales courts?

The Hon. JOHN HATZISTERGOS: The court system in New South Wales is the largest in Australia and handles more cases than any other jurisdiction. This year the Productivity Commission's Report on Government Services found New South Wales courts led the nation not only in the number of cases dealt with but also in the effectiveness and efficiency with which those cases were managed. For example, the New South Wales District Court, Local Court and Children's Court were all national leaders in terms of timeliness of criminal matters. These courts handle over 99 per cent of all criminal matters in New South Wales. The New South Wales Local Court was the only court to achieve the national standards set by the Productivity Commission, which requires that no more than 10 per cent of matters are more than six months old.

In light of those results, it is extremely pleasing that the report released yesterday by the New South Wales Auditor General has again found that New South Wales courts have some of the best results in the nation—in fact, a clearance rate close to 100 per cent. The report found that the Local and District courts had the lowest backlog of cases of all States and Territories over 12 months for non-appeal criminal matters. The District and Supreme courts had the second lowest backlog of cases over 12 months for civil non-appeal matters. The average cost per matter in New South Wales District and Supreme courts is less than the national average. The Local and District courts handle more than 99 per cent of all criminal matters each year, making such a low backlog an even greater achievement.

These results are a testament to the hard work carried out by court staff that is critical to making our courts the most efficient in the nation. The Auditor-General also praised the largest ever court development undertaken in New South Wales, the $330 million Parramatta Justice Precinct, with the report stating that the entire project was significantly ahead of schedule without going over budget. The Government is constantly seeking ways to continue the high performance of our courts. Current programs, such as installing audiovisual equipment and the revolutionary JusticeLink, which will electronically link every court in the State, will help us retain our leading position.

The Government is committed to maintaining an effective court infrastructure across the State to provide the community with improved access to justice services. That is in contrast to the position the previous Government adopted when it closed 39 courts in a single day, a decision that took our court system to the verge of collapse. By contrast, this Government rebuilt the court system and has opened new courts, rebuilt old ones and is continuing to do so. The Government has provided $250 million over 10 years to upgrade court facilities around the State, including improved access for court users and jurors with disabilities. During 2006-07 the Government opened more new courtrooms than it had at any time in the previous century.

The Government is committed to ensuring our court system can meet the demands of the largest jurisdiction in Australia, and this year two major independent reports have praised the strong performance of our courts and have stated that New South Wales is the national leader in efficiency, timeliness and professionalism.

GREEN EVENTS POLICING COST RECOVERY

The Hon. ROBERT BROWN: My question is directed to the Attorney General. Is the Attorney General aware of the domestic terrorist action by Greenpeace extremists at the Munmorah Power Station two weeks ago? Is he aware also that in Tasmania, which has been plagued by these sorts of protests in its forests and woodchip mills for years, the police commissioner has suggested that the Tasmanian Government alter the law to allow police to recover costs from these civil pests who stage what the commissioner rightly described as "carefully conducted media events"?

Is the Attorney General aware also that a Green group, who lost a legal challenge to the Anvil Hill mine yesterday, is now threatening acts of civil disobedience to stop the mine going ahead? Given the circumstances, will the New South Wales Government consider a catch-up change to the law here to allow police and emergency services in New South Wales to recoup the costs incurred in attending these blatant, dangerous and police-resource draining publicity stunts?

The Hon. JOHN HATZISTERGOS: It is an interesting proposition, and one that I will research diligently and come back to the House on.

CROWN FINANCE ENTITY PAYMENTS

The Hon. GREG PEARCE: My question is directed to the Treasurer, Minister for Infrastructure, and Minister for the Hunter. Does the Treasurer stand by his Treasury papers that state that the Crown Finance Entity is responsible for assets and liabilities, and their related transactions, that are managed centrally and for which individual agencies are not directly accountable? If so, why is it that the Treasurer approved a number of significant transfers from the Crown Finance Entity for, amongst other things, $35.2 million for Opera House and museum improvements, $20 million for incentives under government cleaning contracts, $27 million for Sydney's ferries and $15.6 million additional funding to meet costs associated with the growth in prison numbers? Why were these payments made by the Crown Finance Entity instead of from agencies' budgets or the Treasurer's advance, and is the Treasurer continuing to use the Crown Finance Entity as a cash cow for inter-agency transfers without seeking or receiving parliamentary approval for appropriation of funds?

The Hon. MICHAEL COSTA: The honourable member's premise is mistaken. All of the Government's financial expenditures and transfers are either approved by the budget process and the Parliament's deliberations or, alternatively, by bills for supplementation during the course of the year. All of the transfers are within the guidelines and under the appropriate regulations that govern transfers.

GREENPOWER

The Hon. HELEN WESTWOOD: My question is directed to the Minister for Energy. Will the Minister update the House on the Government's success in reducing greenhouse gas emissions through GreenPower?

The Hon. IAN MACDONALD: This is practical green politics in the real sense.

The Hon. Robyn Parker: We might not let you in.

The Hon. IAN MACDONALD: You might not get in; but come and see me—if you factionally line up, you'll be right. As members on this side of the House are aware, for the last decade, the New South Wales Government, not the Commonwealth Government, has led the way on GreenPower initiatives.

[*Interruption*]

I know David and Charlie will take anyone in the party out in their western branches. Charlie would have him in there stacking them for the uglies. The New South Wales Government launched the National GreenPower Accreditation Program in 1997. GreenPower provides a guarantee to customers that their purchase of a GreenPower product supports new renewable energy development while reducing greenhouse gases.

GreenPower's success, and New South Wales's leadership on this issue, has been recognised throughout Australia, and it has since been taken up by Victoria, Queensland, South Australia, Western Australia and the Australian Capital Territory. This innovative—and, what is more, environmentally responsible government initiative—has also won gold at both the 2005 New South Wales Premier's Public Sector Awards—

Mr Ian Cohen: It sounds like an inside thing to me.

The Hon. IAN MACDONALD: The member speaks too quickly. It has also won the national 2006 Banksia Awards climate category. The New South Wales Department of Water and Energy, as manager of the national GreenPower program, provides quarterly status reports to the market on the program. In addition, the department conducts an independent audit of participating retailers for compliance with the rules of the program. The Government has received the latest quarterly report prepared by the department, and I am very pleased to be able to provide the House with details of the main findings.

The report shows that customer participation across New South Wales in renewable energy through GreenPower in the three months to September has increased by 13,370, while nationally it has increased by 55,217. GreenPower sales in New South Wales for the quarter were a record at 103,919 megawatt hours. National GreenPower sales were also a record at 300,647 megawatt hours. The 2006 GreenPower Retailer Compliance Audit provides information on the compliance of retailers participating in the renewable energy program. This includes surrendering the correct number of Renewable Energy Certificates for customer sales and adhering to ethical marketing guidelines. The compliance audit shows that Victoria sold slightly more GreenPower than New South Wales in 2006—that is, 263,660 megawatt hours versus 254,326 megawatt hours. However, the good news is that the three quarterly status reports so far for 2007 indicate that New South Wales has sold more GreenPower than Victoria this year.

It indeed gives me great pleasure to be able to inform the House that 169,270 homes and 12,023 businesses in New South Wales are now voluntarily purchasing GreenPower—an environmentally responsible renewable energy source. New South Wales continues to lead the way in the amount of GreenPower purchased nationally, representing 34.6 per cent of total sales at the end of the third quarter of 2007. More importantly, the number of customers now opting for environmentally friendly GreenPower in New South Wales is nearly three times what it was in September 2006. Nationally the number has nearly doubled, and there are now more than 645,000 GreenPower customers across Australia.

These outstanding results in New South Wales can be attributed to the Iemma Government's delivery on commitments made in the New South Wales Greenhouse Plan. A key part of this plan was a major community awareness program to promote GreenPower between December 2006 and March 2007 through television, newspaper and Internet media. This initiative was timed to align with the introduction in January 2007 of new laws requiring retailers to offer at least 10 per cent GreenPower to new or moving residential customers. The aim of the campaign was to encourage the community and individuals to play their part in combating climate change and reducing greenhouse gas emissions. [*Time expired.*]

The Hon. HELEN WESTWOOD: I ask a supplementary question. Will the Minister please elucidate his answer?

The Hon. IAN MACDONALD: Since its inception in New South Wales, GreenPower has been responsible for cutting greenhouse gas emissions in Australia by around 4.5 million tonnes. That is equivalent to removing one million cars from our roads for a year. Unlike the late Howard Government, the Iemma Government has shown its bona fides when it comes to acting in the face of climate change. Although there is much more to do in this respect, the Government's GreenPower program has literally been a breath of fresh air for the people of New South Wales and the environment.

ABORIGINAL LAND COUNCILS LAND CLAIMS

Mr IAN COHEN: My question is directed to the Minister for Lands, Minister for Rural Affairs, and Minister for Regional Development. In relation to the logjam of outstanding land claims by Aboriginal people documented by the New South Wales Auditor-General, has the Government suggested that land councils should pay for surveying? Does the Minister believe that this sort of cost shifting from government to the land rights network is appropriate given that the money in the trust fund of the New South Wales Aboriginal land councils is compensation, not taxpayers' money? Has the Minister formally sought discussions with the Aboriginal land councils and with the Minister for Aboriginal Affairs about working together to ease the logjam of outstanding land claims?

The Hon. TONY KELLY: The Government has moved to increase settling some of these claims. In fact, the Treasurer provided $1.38 million over four years to expedite them. In 2005-06 and 2006-07 an inordinate number of claims were lodged—just over 8,100—which took the number on the register from about 1,000 or 1,500 up to 9,500. We must investigate every claim thoroughly. As the Auditor-General stated, many of the claims relate to freehold land and that is obviously not claimable, but we must still go through the process. That is the reason I approved 12 claims in the past year and rejected about 375. It is a difficult process. The other issue holding them up is surveying. The Department of Lands is providing surveying services before the blocks can be transferred. It has made an offer to the Aboriginal land councils that if they would like to get this valuable land earlier, they could assist by providing the surveying services.

FARMBIS

The Hon. JENNIFER GARDINER: My question is directed to the Minister for Primary Industries. Is the Minister aware that the incoming Federal Labor Government is planning to scrap the successful FarmBis program, which provides a 65 per cent subsidy for training in a variety of registered courses? Is he aware that the New South Wales Farmers Association has made a desperate plea to the incoming Federal Labor Government to reconsider and to keep this valuable program in place? Will he heed the needs of New South Wales farmers and lobby his colleagues in the incoming Federal Labor Government to keep the FarmBis program in place?

The Hon. IAN MACDONALD: I look forward to early discussions with the new Minister for Agriculture, and I presume Fisheries, at a federal level.

The Hon. Catherine Cusack: But who is it?

The Hon. IAN MACDONALD: I am not aware. Perhaps the member has inside information. I am not sure who that person will be.

The Hon. Duncan Gay: Peter Garrett!

The Hon. IAN MACDONALD: That would be interesting.

The Hon. Rick Colless: Would you support Peter Garrett as the Minister for Agriculture and Fisheries?

The Hon. IAN MACDONALD: I will not tell Kevin Rudd how to allocate his portfolios. It would be very arrogant of me to go down that path.

The Hon. Charlie Lynn: It has never stopped you before.

The Hon. IAN MACDONALD: Charlie, history has nothing to do with this.

The Hon. Duncan Gay: Would you welcome him as the new Minister for Agriculture and Fisheries? You want Peter Garrett to be the Minister responsible for primary industries!

The Hon. IAN MACDONALD: I am an unashamed fan of Peter Garrett. I attended a number of Midnight Oil concerts over the years and had a thoroughly good time. I am sure some of my colleagues, the more "in" side of the House, would concur. I would welcome his being appointed to any position Kevin Rudd chooses. I am sure that we will have animated and productive discussions. I will raise those issues with the new Federal Minister for Agriculture and Fisheries at the earliest opportunity, probably some time next year.

STATE RECORDS AUTHORITY

The Hon. PENNY SHARPE: My question is directed to the Minister for Commerce. Can he update the House on the work of the State Records Authority?

The Hon. ERIC ROOZENDAAL: The State Records Authority is the New South Wales Government archives and records management authority. It manages and preserves the New South Wales State archives collection and makes them accessible to the community. Archives play a vital role as the raw material of history—the primary source for historical inquiry. They are also used for social, medical, environmental and

many other kinds of research. In New South Wales we have a rich collection of official archives dating back to 1787, when the first fleet left England carrying records as well as convicts.

I have been informed that the significance of this collection was highlighted earlier this year when New South Wales convict records, along with those of Tasmania and Western Australia, were inscribed in the United Nations Educational, Scientific and Cultural Organization Memory of the World Register. That register is the documentary equivalent of the World Heritage Register. This means that our convict records join such treasures as the Bayeux Tapestry, the manuscript of Beethoven's ninth symphony and Cook's *Endeavour* journal. The State Records Authority has a rich history that is worth exploring in detail.

In 1821 the first Colonial Secretary and Registrar of the Records was appointed, as our young colony recognised the importance of documenting history for the purpose of good governance and the benefit of future generations. In 1887 an archivist was appointed to transcribe a history of New South Wales from the records. The 1950s saw further advances in the development of records archiving, and in 1999 the State Records Authority was established, bringing the management of records and archives into the modern era. In November last year State Records became part of the Department of Commerce to strengthen its important function of continuing to set new standards in Government records management, particularly the digital records of today and tomorrow.

I am advised that if boxes of documents in the State archives were placed side by side, they would stretch for 58 kilometres. They are housed in secure, climate-controlled facilities at the Western Sydney Records Centre, Kingswood, which also has a state-of-the-art conservation lab and public reading room. There is also a reading room and an exhibition space at the State Records' site, situated in the historic The Rocks district. Over 60,000 people visit the reading rooms each year. In line with the Government's online service delivery objectives, the website of State Records is now a major channel for providing archival services to the community. In 2006-07, there were almost one million visits to the website. One of the main attractions, particularly for family and local historians, is a set of indexes containing some 800,000 entries.

The main catalogue to the State archives collection, "Archives Investigator", has been online since 2000. I am advised that in October this year State Records released a new version of this system with a range of enhancements. Archives Investigator is a world-leading search and retrieval tool, providing a web of navigable links between information about the archives themselves the Government bodies that created them, and the functions and activities these bodies performed. A small but growing portion of the archives have been digitised and are available online. The main focus of State Records so far has been on archival photographs: some 5,500 photographs can be searched and viewed online. I commend the work of State Records, and look forward to updating the House on the activities of this important project in the future.

CORRECTIONAL SERVICES STATISTICS

Ms SYLVIA HALE: I address my question to the Minister for Justice. Is the Minister aware that the recent Auditor-General's report shows that New South Wales has a higher rate of imprisonment per 100,000 population than the national average, when offences such as robbery, unlawful entry with intent, motor vehicle theft and other theft have declined in real terms since 2002; that New South Wales has a higher rate of assault within prisons than the national average; and that New South Wales has a higher rate of recidivism than the national average? Why have the Government's policies produced such outcomes? What new initiatives will the Government adopt to address these problems?

The Hon. JOHN HATZISTERGOS: I think the member has answered her own question. She said the rate of imprisonment is higher and the rate of offending is lower. I think that explains, to some extent, the issues she has raised. The member raised a number of matters in her question. Firstly, in relation to assault, the member would know that unlike other jurisdictions, at the moment in New South Wales people who are placed into custody in police cells are included in statistics for the State's prison system. Most other jurisdictions do not include statistics relating to police cells in their corrective services statistics. Many people who come into custody for the first time are detoxing from drugs or alcohol and are quite distressed and are naturally impulsive, and in other jurisdictions that information is under the jurisdiction of the police, not corrective services.

The member would also know that unlike the situation that exists in other States—and this will change in this State in due course— in New South Wales forensic patients, that is health patients, are held in corrective services custody. The figures for such people, who are also extremely distressed and quite agitated, are captured by the Department of Corrective Services and are part of its statistics. Consequently, the figures become

inflated. She would also know, if she bothered to research matters, that that situation will change when the new forensic hospital is completed at Long Bay, and when such people leave the prison system they will become the responsibility entirely of the health system. She failed to report that statistics are captured differently in other jurisdictions. In New South Wales corrective services records every offence of assault irrespective of how minor it is. Other jurisdictions do not use the same method of capturing statistics.

The major driver of recidivism, and the member should be aware of this, is policing. If we have stronger policing, inevitably more people will be caught and returned to prison. I do not think that that is necessarily a bad thing. Furthermore, as I think report after report has stated, the New South Wales corrective services system also includes a Drug Court, which operates on the basis of sanctions, which means that if a person commits a breach—has dirty urine, for example—he or she can be brought back into the correctional system. Each one of those sanctions is recorded as a recidivist statistic. So, those factors cannot be compared to determine whether the system is inferior. That is not the appropriate way to measure recidivism. However, I have noted that generally re-offending is on the way down. We have a commitment under the State Plan to reduce recidivism across the board, and not just in the correctional system, by 10 per cent over the duration of the plan, and I note that, notwithstanding the criticism the member has expressed, that the rate is falling.

OXLEY HIGHWAY PROJECT

The Hon. MELINDA PAVEY: My question without notice is directed to the Minister for Roads, and Minister for Commerce. Is the Minister aware that it has now been five years since Carl Scully announced he would provide $80 million to undertake the Oxley Highway project, yet only a small amount of planning money has been allocated so far for this regional road? How long will it be until the Oxley Highway is completed, given this rate of progress? What are the revised costs of the project given the amount of time that has elapsed between the original funding announcement and now?

The Hon. ERIC ROOZENDAAL: Of course, I will treat with a grain of salt the accuracy of the honourable member's question. I take this opportunity to correct the record. Yesterday I said the honourable member was the booth captain for Coffs Harbour when in fact she was booth captain of the Grafton South booth, where she achieved a 9.09 per cent swing against the Coalition—significantly higher than the State average. On the important matter of roads, of course the New South Wales—

The PRESIDENT: Order! I ask the Minister not to be diverted by interjections.

The Hon. ERIC ROOZENDAAL: The Dulwich Hill booth achieved an 8 per cent swing against the Coalition. I understand the Hon. Don Harwin was not permitted to hand out material at that booth. I believe the Hon. Greg Pearce was the booth captain of Moss Vale booth, where there was a 15 per cent swing against the Coalition. So, the award for the worst booth captain of the recent Federal election goes to the Hon. Greg Pearce. Back to the important issue of roads, about which I was speaking before I was rudely distracted by the Opposition. We have a record $3.6 billion roads budget, we are committed to improving the road network, and we will continue to work to upgrade the road network.

COOMA CORRECTIONAL CENTRE

The Hon. CHRISTINE ROBERTSON: My question without notice is addressed to the Minister for Justice. What is the latest information on the expansion of Cooma Correctional Centre?

The Hon. JOHN HATZISTERGOS: I was at Cooma last week with the member for Monaro, Steve Whan, and I had the pleasure of opening the new Henry Mortlock minimum-security section of the Cooma Correctional Centre. This section has the capacity to house up to 50 more offenders—this will be of interest to Ms Sylvia Hale—taking the total inmate capacity at Cooma to 190, including 140 minimum-security and 50 medium-security inmates.

Henry Mortlock was born in 1898 and served in the First World War and Second World War, and the new security unit at Cooma honours his memory. He joined the then Prisons Department in 1924 and rose through the ranks at Goulburn jail before being appointed as the first superintendent of Her Majesty's Prison, Cooma, in 1957. Mortlock worked as a prison officer for almost 38 years, up until his retirement on 30 April 1962. Construction of the section in Vulture Street, on the site of the Old Prison Farm, as it was known, began in May this year and was completed recently at a total cost of $500,000, largely because we used inmate labour.

I am pleased to say that already the economy of Cooma has benefited from the expansion. The project injected hundreds of thousands of dollars into Cooma during the six months of construction and it is estimated that the new facility will be a significant boost to the local economy every year. Construction provided income for up to 20 local businesses involved in plumbing, electrical, building services, concrete supplies, hardware, landscaping, turf supply and excavation.

It is estimated that when the new facility is fully operational it will result in an injection into the Cooma commercial region of about $1 million a year. This is money that will be spent by staff of, and visitors to, the correctional centre in local restaurants, clubs, small goods operations and other businesses—a boon to the local economy. Part of the Henry Mortlock minimum-security section has been built using mainly inmate labour. These offenders benefited from learning new work skills, which may prove useful to them in finding gainful employment either while on pre-release leave or upon release back into the community.

I would briefly like to touch on the rich and colourful history of Cooma Correctional Centre. Members may be surprised to learn that construction began in 1870 using granite taken from the hill on which the centre is built, and operations began on 1 November 1873 with 31 cells. In 1877 it became a lunatic asylum and operated for certain periods as a police holding facility. It closed in the early 1900s but re-opened as a prison in March 1957. In November 2001 an expansion of Cooma Correctional Centre was completed, giving it an operational capacity for 140 medium-security and minimum-security offenders.

In 2005 a proposal was outlined to redevelop the Old Prison Farm area for use as a new minimum-security facility, and on 3 November 2006 the Premier formally announced the expansion project. This expansion is part of a raft of capital works planned by the New South Wales Government, including the new 500-bed correctional centre near Nowra on the South Coast and the new 600-bed Wellington Correctional Centre, which opened this year and continues to bring economic benefits to the local economy.

I am pleased to inform the House that the Department of Corrective Services also operates a museum at the Cooma Correctional Centre complex in Vale Street. The museum has generated significant interest from the local community and visitors to the region and has been open since June 2005. Up until March 2007 total visitor numbers have exceeded 4,400. It is open from Tuesday through to Saturday and members of the public can access its unique collection of heritage assets.

ERARING POWER STATION

Dr JOHN KAYE: My question is directed to the Minister for Energy. Is the Minister aware that the proposed $200 million upgrade of Eraring power station would fail to achieve sufficient reductions in oxides of nitrogen emissions to meet New South Wales clean air regulation? Is the Minister further aware that expansion of the ash pond at Eraring power station will increase leakage of selenium , arsenic, lead, chromium, copper, zinc and other heavy metals into Lake Macquarie? What steps will the Minister take to protect the environmental health of the people of Lake Macquarie?

The Hon. IAN MACDONALD: The member has taken this question from this morning's Newcastle *Herald*. This relates to an application under part 3A and all issues will be addressed under that rigorous assessment process.

[*Interrruption*]

The PRESIDENT: Order! Any member wishing to ask a supplementary question must seek the call to do so in a clear voice.

Dr JOHN KAYE: I ask a supplementary question. Does the Minister have responsibility at all, as the Minister for Energy and the Minister responsible for coal-fired power stations, for the emission of toxic substances into the environment and, if so, can he comment on what steps he is taking to protect the environmental health of the people of Lake Macquarie?

The Hon. IAN MACDONALD: I am always working towards improving environmental factors, particularly for the people of Lake Macquarie. There is no question about that. I have raised the issue of clean coal technology every day in this House for the last year and a half. We are working hard on these issues. I advise the member that I am not the Minister for Climate Change, Environment and Water, to whom his answer should be referred.

KING GEORGES ROAD AND M5 INTERSECTION, BEVERLY HILLS

The Hon. MARIE FICARRA: My question without notice is directed to the Minister for Roads, and Minister for Commerce. What is the Government doing to improve safety at the intersection of King Georges Road and the M5, Beverly Hills, given that 94 motor vehicle accidents have occurred at this dangerous intersection—which is ranked the sixth worst in New South Wales in 2006—in the last financial year, an increase of 40 per cent over the previous year?

The PRESIDENT: Order! I ask the Minister not to be diverted by the interjections.

The Hon. ERIC ROOZENDAAL: I will do my very best to follow that advice. The Roads and Traffic Authority, with its records Roads budget of $3.6 billion, is committed to the continued upgrade of the New South Wales road network and is continuing to identify black spots around the network. It is important to emphasise that the priority of the Roads and Traffic Authority is to identify parts of the network where there have been injuries and fatalities. We have an index of those issues to identify where we can make improvements.

We are doing this through engineering modifications, redesigning intersections and utilising the latest technologies such as Crashcam at particular intersections to film the intersection to work out why accidents are occurring and to take that information and apply it, through engineering or other solutions, at particular intersections. The New South Wales Centre for Road Safety, which has been set up within the Roads and Traffic Authority, will become a leader in research on road safety and will improve the conduct of motorists in New South Wales.

Part of the New South Wales Centre for Road Safety includes Crashlab, a state-of-the-art facility for testing vehicles for safety. It also tests restraints, motorbike helmets and issues associated with road safety. We are committed in New South Wales to continually improving safety for all users in the community. That can be highlighted by the Government's recent campaign targeting young drivers, encouraging them to slow down, and new restrictions on P-plate drivers to improve young driver safety and other campaigns to discourage speeding. Also, the Iemma Government introduced random drug testing to discourage people from driving under the influence of drugs, which represents a major hazard to other users on the road. The Government has a comprehensive approach to addressing road safety in New South Wales to ensure the safety of the community.

GITHABUL NATIVE TITLE RIGHTS

The Hon. TONY CATANZARITI: My question is directed to for Minister for Lands. Can the Minister update the House on the latest formalisation of the native title rights for the Githabul people?

The Hon. TONY KELLY: Today is a historically significant day for the Githabul people in northern New South Wales. For members unfamiliar with the area, it is in the Federal seat of Page, which the dedicated and hardworking Janelle Saffin won back from the disintegrating Nationals at last Saturday's historic Federal election. As we are talking about the Federal election, I make the observation that the Federal Coalition has now appointed a former union official—Dr Brendan Nelson—as its leader. How novel!

Today, as I speak, the Federal Court is formally recognising the continuing existence of the native title rights of the Githabul people, at a celebration at Woodenbong Showground. This is a formal agreement between the Githabul people and the New South Wales Government, representing the people of New South Wales, the Casino Rural Lands Protection Board and the Woodenbong Common Trust. The agreement acknowledges the Githabul people's native title rights across some 112,000 hectares of land, covering 9 national parks and 13 State forests in the Kyogle and Tenterfield shires.

But we should acknowledge more than this agreement today: it is the end of a long process, which started in February 2004. This process, I believe, is one of the most positive examples of open negotiation leading to agreement—an agreement which, I might add, benefits all parties involved. For the Githabul people the agreement means they can have proactive input into the ongoing management of the national parks and State forests contained in the agreement. This represents an opportunity for them to strengthen their recognised spiritual and physical bond with the land, protect their cultural values and sacred sites, while further developing their skills and employment opportunities.

The agreement will not only ensure the protection of the Githabul people's culturally significant sites but will also result in the transfer of 102 hectares of land to the Githabul Corporation, on behalf of the Githabul

people. For the Government and the people of New South Wales, the agreement provides an unprecedented opportunity to learn about and gain a deeper appreciation of the traditional practices and knowledge of the Githabul people, and to work together to ensure the land is sustainably managed. The people of New South Wales also benefit in two further ways. They are assured their access to the land, and the enjoyment and benefits they derive from visiting both the national parks and State forests, are secure and will be strengthened by the knowledge, love and care of the land that the Githabul people will provide as joint custodians.

On such an historically significant occasion it is paramount to thank the many people who made such an agreement possible. I salute the Githabul people for all their hard work over many years to make this agreement a reality. The Githabul people and their representatives, including New South Wales Native Title Services, and Chalk and Fitzgerald, Solicitors, should be commended for not only their vision but also their patient negotiation, which realised this vision. I also thank officers from the New South Wales Departments of Lands, Primary Industries, and Environment and Conservation. Finally I thank officers from the National Native Title Tribunal, and representatives and board members from both the Casino Rural Lands Protection Board and the Woodenbong Common Trust. As I said earlier, today's ceremony represents the end of a long process, whereby negotiation successfully led to agreement. This historic agreement benefits all parties—the Githabul people, the people of New South Wales, and the Government, which represents both parties.

MENINGOCOCCAL DISEASE

Reverend the Hon. Dr GORDON MOYES: I ask the Attorney General, representing the Minister for Health, the following question without notice. Is the Minister aware that a baby boy died from suspected meningococcal disease in Newcastle's John Hunter Hospital yesterday? Is he also aware that about three-quarters of all deaths from meningococcal disease could be prevented with earlier diagnosis and treatment? Is the Minister aware that there have been 67 cases of meningococcal disease reported to NSW Health this year, that two people have died from the disease, and that there have been 11 other confirmed cases of meningococcal disease in the Hunter New England Health region? Can the Minister indicate what arrangements are in place to ensure that early detection and treatment will result in a full recovery and will avoid future deaths as the peak season for the potentially fatal illness approaches?

The Hon. JOHN HATZISTERGOS: I will refer the question to the Minister for Health.

MANILLA ROAD, TAMWORTH, UPGRADING

The Hon. RICK COLLESS: My question without notice is directed to the Minister for Roads and campaign director for George Newhouse. When can Tamworth residents expect the State Government to deliver the funding necessary to upgrade Manilla Road, given that the Minister is now the third successive Minister to inspect the road's state of disrepair?

The Hon. ERIC ROOZENDAAL: I took the opportunity when I was at the regional Cabinet meeting hosted in Tamworth to have a look at the Manilla Road issue, together with the Independent member for that area.

[*Interruption*]

I believe that once upon a time Tamworth used to be a Nationals seat but, like so many other seats, it has been lost to The Nationals, who are on the slippery slide down towards oblivion. They have only nine seats left. While we are reflecting on The Nationals, and since it is the end of the week, I checked where the Hon. Jennifer Gardiner was handing out how-to-vote cards on election day, to see how The Nationals went in her area. Of course, there was no Nationals candidate so they got zero votes, and as a result I cannot tell members what the swing was there. I am well aware of the issues relating to Manilla Road, and we are looking at them.

RURAL WOMEN'S NETWORK

The Hon. AMANDA FAZIO: Mr President—

The Hon. Charlie Lynn: Mandy the miserable!

The Hon. AMANDA FAZIO: No wonder I'm miserable: I have to look at you lot all day. My question is addressed to the Minister for Primary Industries. Will the Minister update the House on how the Government is helping the New South Wales Rural Women's Network?

The Hon. IAN MACDONALD: I welcome the opportunity to update my colleagues on both the role of the State Advisory Committee for the New South Wales Rural Women's Network and some of the current activities and issues being dealt with.

The Hon. Duncan Gay: Mandy and Macca on breakfast radio.

The Hon. IAN MACDONALD: That would be good; we could do one of those duos. The New South Wales Rural Women's Network is a statewide government program within the Department of Primary Industries.

The Hon. Jennifer Gardiner: The Women's Network was founded by the National Party.

The Hon. IAN MACDONALD: The National Party did form a lot of things—it is just a pity it disappeared. The program has a team of two staff who work with a community-based State Advisory Committee, also known as the SAC. The committee is co-chaired by the Director General of the Department of Primary Industries, Barry Buffier, and Elaine Armstrong from Wagga. The State Advisory Committee was formed in 1992, and its primary purpose is to act as a reference group and provide independent advice and strategic direction to the Rural Women's Network by developing strategies to address priority issues specific to rural women, promoting and advocating for Rural Women's Network initiatives, providing feedback on the effectiveness of the network's programs, being a consultative body for the Department of Primary Industries, providing feedback on the effectiveness of relevant programs and initiatives, and identifying hot and emerging issues for rural, regional and remote communities within New South Wales.

The State Advisory Committee meets three times a year and is made up of nine members, representing an important cross-section of rural organisations and interests. At its most recent meeting in Dubbo last week the committee welcomed its newest member, Ms Rebel Black, who comes from Lightning Ridge and will represent the interests of the State's Far West. As part of last week's discussions, an update was provided on the Premier's Rural and Regional Taskforce, which was established to examine and provide advice on key economic, environmental and social issues affecting rural and regional communities across New South Wales. Members of the committee have heard from those closely involved with this task force, and have been able to take this feedback home to their local communities and ensure that two-way communication occurs.

Other current topics discussed at the Dubbo meeting included small business and drought. Discussions focused on the survival of small businesses, as they are often the backbone of towns, providing employment and generating economic benefits to local communities. Supporting communities through change was also discussed. The group recognised the impact of drought on small business, resulting in reduced services and an inability to attract staff and professionals. There is a need to continually skill women to actively support themselves, their families and communities going through these changes. The group also discussed managing climate change, initiatives of the Rural Women's Network such as the *Country Web* newsletter, workshops and women's days. These are all important ways of supporting rural women.

I wish to give a brief overview on the work of the Rural Women's Network, which works hand in hand with the State Advisory Committee. The idea for this network originated in 1991, when a Rural Women's Conference was held in Parkes, and the network was formally established the following year. Rural women have identified a range of priority issues, and they include isolation, health, education, lack of services, and family and broader community issues. The network works with other agencies and groups to stimulate action to address these issues. The Rural Women's Network also works with rural women themselves—enhancing their skills, knowledge and confidence, and their access to information and support, so they too can stimulate action and address these issues.

One of the highlights of the work done by the Rural Women's Network is the coordination of the annual Rural Women's Award here in New South Wales. The initiative recognises the impressive achievements made by some of our most outstanding rural women and highlights the contribution of rural women to the New South Wales community. I applaud the ongoing efforts of both the State Advisory Committee members and the Rural Women's Network staff. I applaud their efforts. Kangaroos are an important issue in the bush. We are going to lunch shortly—[*Time expired.*]

LIQUOR ACCORD HOTEL LOCKOUTS

Reverend the Hon. FRED NILE: I ask the Minister for Primary Industries, representing the Minister for Gaming and Racing, a question without notice. Is it a fact that Scruffy Murphy's Hotel in Goulburn Street, Sydney, has adopted a lockout policy for new clients from 3.00 a.m. onwards to reduce violent assaults? Is it a fact that lockouts in Manly and regional areas have reduced alcohol-related violence by 50 per cent? Is it a fact that the Acting Commander of City Central, Detective Inspector Jon Alt, said lockouts would be a positive move in the fight against alcohol-related violence? Will the Government take the lead and consider compulsory 3.00 a.m. lockouts under the Liquor Accord in the Sydney Central Business District and other metropolitan areas?

The Hon. IAN MACDONALD: That policy is worth having a look at. As I am not the Minister responsible for that area, I will refer the question to the Hon. Graham West for his perusal, consideration and reply.

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

DEFERRED ANSWERS

The Hon. Tony Kelly presented the following deferred answers to questions without notice:

TRACTOR CONDITIONAL REGISTRATION

On 24 October 2007 the Hon. Trevor Khan asked the Minister for Roads a question without notice. The Minister has responded with the following reply:

> I am advised:
>
> The RTA conditionally registers these types of vehicles to enable farmers to operate their businesses, while maintaining the safety of road users.
>
> There is a requirement for the vehicle operator to carry a copy of the Oversize Vehicle Notice with them while they are operating the vehicle.
>
> This requirement is in accordance with the National Regulatory Framework for the management of Oversized Vehicles, as developed by the National Transport commission (NTC)
>
> The NTC regularly reviews National legislation, and is in the process of reviewing the requirements for these vehicles.

WORKCOVER DEPARTMENTAL LIAISON OFFICER POSITION

On 13 November 2007 the Hon David Clarke asked a question without notice of the Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast and Minister Assisting the Minister for Finance. The Minister has provided the following response:

> The position of WorkCover Departmental Liaison Officer was last filled on 27 April 2007 until 31 December 2007. The position was not advertised, but filled as a developmental opportunity for a permanent staff member of WorkCover.

YOUNG WORKERS INJURY AND ILLNESS

On 25 October 2007 Reverend the Hon. Dr Gordon Moyes asked the Minister for Industrial Relations, representing the Minister for Youth, a question without notice about young workers injury and illness. The Minister has provided the following response:

> I would like to reiterate the advice given by my colleague, the Minister for Industrial Relations, that obligations for occupational health and safety are the responsibility of WorkCover New South Wales. A series of initiatives around education in the workplace have been put in place with particular emphasis on the obligations of employers and young people to make sure they are safe.
>
> It is encouraging to know that recent WorkCover New South Wales advertising campaigns have contributed to New South Wales having the safest workplaces ever.
>
> The Honourable Member may be interested in accessing the Youth New South Wales website. It has links to the New South Wales Office of Industrial Relations, National Children's and Youth Law Centre and WorkCover New South Wales. Through these links young people can access comprehensive information relating to their legal rights at work, safety in the workplace and information on dealing with bullying in the workplace.

Questions without notice concluded.

[*The President left the chair at 1.03 p.m. The House resumed at 2.30 p.m.*]

CRIMES (DOMESTIC AND PERSONAL VIOLENCE) BILL 2007

Second Reading

Debate resumed from an earlier hour.

The Hon. JOHN AJAKA [2.30 p.m.]: I continue where I left off prior to the debate being interrupted for questions without notice. The Crimes (Domestic and Personal Violence) Bill aims to improve the court's response to incidents of domestic and personal violence by setting out clear and specific procedures in dealing with the issuing of apprehended violence orders. The bill also amends various Acts to facilitate an adequate response to the incidents of domestic personal violence. It amends section 87 of the Law Enforcement (Powers and Responsibilities) Act 2002 to afford police more power to search for weapons on premises where domestic violence offences have occurred.

Specifically the bill seeks to expand the range of dangerous implements that a police officer may search for in a dwelling provided the police officer reasonably believes that they may have been used to commit a domestic violence offence. Police play an important part in the enforcement of domestic violence offences and require adequate powers to carry out their duties in protecting the community. Moreover, the bill amends section 13AC of the Law Enforcement (Powers and Responsibilities) Act 2002 to enable the police to demand the name of the person suspected of being the subject of an apprehended violence order. This is an important part of policing. The difficulty in enforcing apprehended violence orders is addressed by assisting in clearly identifying the person subject to the offence.

I ask the Attorney General to give consideration to also examining the increasing of penalties for vexatious and unwarranted apprehended violence orders by applicants. It is evident that regrettably on some occasions apprehended violence orders applications are vexatious and designed to obtain benefit against the defendant without proper recourse. This is clearly a waste of the valuable resources of not only the police but also, just as importantly, the courts—resources that should be utilised to assist those in genuine need of assistance and genuine victims of violence. It is hoped in looking at increased penalties for any such vexatious claims the Attorney General would put a stop to many being lodged. As indicated earlier, the Opposition does not oppose the bill.

The Hon. MARIE FICARRA [2.34 p.m.]: As a member of the Coalition I support the objectives of the Crimes (Domestic and Personal Violence) Bill. A strong message needs to be sent as to the abhorrence society has to domestic violence. Victims of domestic assault and their families need to be given maximum protection and support. These changes will be in line with the system of justice operating in other State jurisdictions around Australia. It will also make it easier for women and children to obtain apprehended violence orders for their protection. The changes proposed will allow victims to be automatically protected by apprehended violence orders if their alleged attackers are charged with certain serious personal violence offences under section 40. Children of domestic violence victims will be able to be included in the relevant apprehended violence orders under sections 38 and 41.

I refer to the introduction of the offence of domestic violence to identify repeat offenders, which is under section 11. The offence of domestic violence will be noted on a person's criminal record. Other previous similar offences can be noted so as to notify repeat offenders for more serious penalties. It will incorporate the offence of stalking with the intention of causing someone fear, physical and/or mental harm. More power is to be given to police to demand the name of the person suspected of being the subject of an apprehended violence order and for police to be able to search for weapons on premises where a domestic violence offence has been committed. These provisions will give effect to the new domestic violence offences, which will help to track repeat offenders.

Additional powers to police will help increase convictions and ensure greater safety for victims of domestic violence and their families. Such strengthening will hopefully give women and children—and, at times, men—more confidence in speaking out and taking action in the face of intimidation, brute physical force and, at times, debilitating mental abuse. By changing presumptions in relation to apprehended violence orders the victims of crime will be afforded less trauma and stress in the process of seeking the protection they need, which should result in more people coming forward with complaints instead of individuals and families suffering in silence. Although this legislation will be a step in the right direction, we need to tackle the

underlying causes of this social community scourge. Financial, relationship, and career and family pressures are all key factors, along with the major contribution from drug taking, the excessive use of alcohol, the bad social impact of gambling and the lack of family support structures in our modern-day communities. These factors all add to the likelihood of increased domestic violence and repeat offences.

The Government needs to provide the necessary resources to support the intent of this bill. We need more counselling provided on a 24-hour basis to women and families caught in domestic violence nightmares. These services are needed particularly in regional and rural areas. Domestic violence is increasing in these pressure zones, which are suffering financial and family instability. Increased resources are definitely needed in rural and regional New South Wales. Situations where relationships are dysfunctional, with little respect for each other and family members, are commonplace in every circle of society. Much work is needed on improving parenting skills and restoring family and community values. I believe that spiritualism plays a much-needed role in people's lives and it should always be encouraged.

In the lead-up to the last election we heard Government members say that domestic violence has always been a priority of this Government. I wonder whether they are sincere. I do not believe it has been extraordinarily high on the priority list of the Government. It was clear from this year's budget estimates that the way this Government deals with domestic violence is to share the problem out amongst a lot of other portfolios. Sexual assault and violence against women and children are significant problems, yet the New South Wales Office for Women does not have overarching responsibility for policies to address the problems. The Premier's Department and the Department of Community Services seem to set the agenda. The Department of Community Services also runs domestic and family violence strategies. Recent tragic events have shown us that the Department of Community Services is incapable of coping with children at risk, let alone incidences of domestic violence. I would like the Government to address this factor and give more power and resources to the Office for Women to have that overarching policy direction.

This financial year the Office for Women's budget was a paltry $2.4 million. The Premier makes plenty of platitudes, such as, "No problem dismays me more than domestic violence" and "It is a blot on our society." The Government has to provide adequate funding to rectify and alleviate the problem, not just talk about it or build more bureaucratic networks around it. We have failed to hold women's affairs in high esteem. The Office for Women has not done much about stamping out domestic violence. It is not good enough to say that the money is in the budget but it is spread all over the place. The Office for Women should be the main government contact. It should be the leading agency with the responsibility, power and resources to do the job.

The Government needs to improve its management of portfolios, in particular, the Department of Community Services and the Office for Women, whose services have been deteriorating. The Government's attitude smacks of insincerity. We will make a difference in improving the life of many women and children suffering in our communities if we properly resource the Office for Women. Currently the Office for Women has a token human resource element of 14 people with a limited budget of $2.4 million. More than half of the budget is spent on staffing and running costs and only $150,000 is spent on grants and subsidies. Questioning at this year's budget estimates revealed that the office does very little and is barely involved in any worthwhile hands-on work with New South Wales women and across government agencies. The office spends too much of its budget on staffing and very little on substantial programs, particularly domestic violence programs.

I want to place on record some important questions that were initiated by the shadow Minister for Women, Pru Goward, for whom I have a great deal of admiration. I remind the House that she served as executive director of the Office of the Status of Women in 1997. From July 2001 she became the Federal Sex Discrimination Commissioner for five years and in 2004 she was appointed the Commissioner Responsible for Age Discrimination. Pru Goward has produced incredible work to put before the former Federal Government on paid maternity leave, work-life balance and the role of women. In 2001 she was awarded the Centenary Medal for her services to journalism and women's rights. Pru Goward has always been a long-term advocate for women's rights.

I place on record the questions Pru Goward asked during the budget estimates process, for which we still await answers. How much money has the Government committed to pursuing an integrated model for the prevention of domestic violence? Why is there no reference to domestic violence prevention programs on the Office for Women website? How do the Minister's office and department liaise with the domestic violence liaison officers in the police local area commands in New South Wales? Why is there not an overarching domestic violence policy across all departments in New South Wales? The New South Wales State Plan, which was launched in November 2006, noted that a new domestic violence intervention court model trial is underway

at Campbelltown and Wagga Wagga local courts. The New South Wales Bureau of Crime Statistics and Research is evaluating this trial. When will these results be available? When will the Minister ensure that the results are listed on the Office for Women website? Why did the State Plan not include overarching domestic violence policy, as well as consider new directions for specific areas?

Pru Goward also asked the following questions: ARTD Consultants were commissioned by the Government to conduct a review of the Violence Against Women strategy. When does the Government expect the results of this review? When will the results be made available to the public? Will the public submissions be made available? If the Minister cannot answer these questions, will she undertake to ensure the completion and publication of the review? Why are all the regional specialists for violence against women located in Department of Community Services offices? Will the Minister commit to relocating the violence prevention specialists across all government agencies to reflect a whole-of-government response? Although these questions do not pertain to this specific bill, I ask the Government to address them.

Violence against women is a serious issue. The Australian Bureau of Statistics crime and safety survey, which was conducted in 2002, highlighted two disturbing facts: only 20 per cent of sexual assaults on women are reported to police and 58 per cent of sexual assaults are committed by someone known to the victim. More than one million Australian women have been victims of domestic violence. I congratulate all those who took part in the white ribbon campaign commencing on 23 November and continuing through to 4 December, which highlights the social issues involved in domestic violence, increases awareness of the problem, and encourages women, their friends and their families to come forward and report these issues. Violence against women is a widespread problem in Australia and overseas.

Violence affects women across social, economic and cultural groups. It occurs in public and private places. It is sometimes perpetrated by strangers but most often by known men—husbands, partners, relatives, friends. When there is a close relationship between the victim and the perpetrator in domestic violence, those women experience a high risk of continued violence. Violence can have a huge impact on women's lives. It can affect them mentally, emotionally and physically. It may even result in their death. It can prevent or restrict a woman's participation in everyday activities of family life, cultural activities and the workforce. Fear of violence can restrict a woman's movement and behaviour. Domestic violence can isolate a woman from her friends and family, and force her into homelessness. The violence is usually associated with adverse financial implications. Violence against women costs the community socially and economically. A society that is unsafe for women is unsafe for everyone.

I congratulate the former Federal Minister Assisting the Prime Minister for Women's issues and new Federal Deputy Leader of the Opposition, the Hon. Julie Bishop. She was responsible for implementing the "Violence Against Women, Australia Says No" campaign that was launched in June 2004 and administered by the Australian Government's Office for Women. Funding for the campaign was provided under the Women's Safety Agenda as part of the former Federal Government's $75.7 million commitment to address domestic and family violence and sexual assault in Australia. I am confident that this program will be continued and further expanded. The program provides information for young persons, parents and the community on identifying and avoiding abusive and violent relationships and where to find help.

The associated website, which is excellent, provides detailed information, including a campaign booklet that is available in 14 languages entitled "Violence Against Women, Australia Says No". As part of the national campaign to eliminate violence against women, the booklet complements a television, radio and magazine campaign. I have seen the hard-hitting campaign at Cronulla cinemas. The booklet is written and promoted in a way that reaches out to everyday Australians and encourages them to speak out. It seeks to encourage families and friends to talk about their relationships and provides information to people, especially young people, to help identify that they may be involved in a violent or potentially abusive situation. There is also a very effective 24-hours, seven-days-a-week confidential helpline. These counselling services need to be expanded by the State Government, particularly to rural and regional parts of New South Wales. The resources provided by this campaign resonate with the Australian family values that former Prime Minister the Hon. John Howard commonly espoused. I quote from his comments on this issue:

> Families are the backbone of a strong and healthy community, and loving supportive relationships are at the heart of happy, well functioning families. Families are the best places for children to learn about love and respect, and how to build and maintain healthy and caring relationships. Relationships founded on fear and violence cannot sustain or nurture either partner or the family they might hope to raise. Tragically, when a young person's early relationship experiences include violence and sexual assault, the consequences can resonate beyond the immediate feelings of hurt and confusion.

> These experiences can destroy an individual's sense of self-worth. Some come to accept violence as the norm, thinking they deserve no better. Violence can become a learnt behaviour, destroying people's capacity to form healthy relationships, now and in the next generation. When parents talk to their children about what makes a good relationship it helps young people develop and clarify their own values. It can provide an opportunity for children to talk about things which might be worrying or confusing them. It is not the role of government to tell people how to live their lives—relationships are personal and private. But violence against women is unacceptable. It diminishes the lives of all those it affects and it tarnishes any community that tolerates it.

They are wonderful words. If women in New South Wales are to get a fair go under this domestic violence legislation, they also need to have a strong and effective Office for Women coordinating public policy advice. The office must be responsible for more than issuing grants and conducting feelgood events: it must have responsibility for implementing key actions and policy initiatives, and it must be properly funded and empowered to do so. This legislation has been a long time coming and now, finally, will bring us into line with other States in Australia. The protection of women and children is paramount in maintaining a healthy and strong community. The Government needs to pay more attention to providing counselling services, especially in regional and rural New South Wales. The greater issues of education, community service provision, and reducing the scourge of excessive drug and alcohol use and increased gambling need to be tackled not only by us as legislators but also in partnership with churches, non-government organisations, local communities and committed individuals. The Coalition does not oppose the bill.

The Hon. HELEN WESTWOOD [2.52 p.m.]: I speak in favour of the Crimes (Domestic and Personal Violence) Bill 2007. The bill is timely because it has been introduced during the 16 days of international activism against gender violence. Recently I spoke in this House about White Ribbon Day, which is the declared United Nations International Day for the Elimination of Violence against Women. It is important that we remember that violence against women is a global issue that pervades all cultural, religious and socioeconomic backgrounds. It is an inexcusable crime and a gendered form of abuse of power in which the majority of perpetrators are men.

We need legislation such as this because, according to a *Crime and Justice Bulletin*, domestic assaults accounted for 35 to 40 per cent of the assaults recorded by police each year from 1997 to 2004. Domestic violence can be exhibited in many forms, including physical violence, sexual abuse, emotional abuse, intimidation, economic deprivation, verbal abuse and threats of abuse. It is often difficult to obtain measures of the extent of domestic violence because there is a low reporting rate to police. There are many reasons for not reporting, and these are usually fear of the offender, the victim is ashamed or embarrassed, the victim dealt with the matter, or the incident is so commonplace it is not considered serious. I know for many of us that will be hard to believe but, regretfully, for many victims of domestic violence that is the case.

Violence against women directly affects the victims, their children, their families and friends, and their employers and co-workers. There can be far-reaching financial, social, health and psychological consequences. Whilst the human impact of domestic violence is incalculable, a study in 2004 by the Office for the Status of Women estimated the total cost per annum of domestic violence in Australia to be $8.1 billion. This estimate includes the costs of pain and suffering, and associated health costs and long-term productivity costs. The 1996 Australian Bureau of Statistics Women's Safety Survey found that of the women who experienced violence by a current partner, 61 per cent reported that they had children in their care at some time during the relationship, and 38 per cent said that these children had witnessed the violence. It then begs the very important question: What about the children?

In a publication entitled "Economic Costs of Domestic Violence", Lesley Laing and Natasha Bobic explain the intergenerational dimension of domestic violence: child abuse is more likely to occur in families experiencing domestic violence. Children exposed to domestic violence are also more at risk of continuing violence with their own children and partners, and are at a heightened risk of alcohol and drug abuse and delinquency later in life. It is recognised that domestic violence can have long-term and adverse effects on the psychological health of the women and children survivors. In particular, the vulnerability of children witnessing such violence and the potential to damage their future emotional and mental wellbeing has been well documented. I particularly refer to the Victorian Health Promotion Report on the health costs of domestic violence, which I understand Dr Michael Flood was involved with and I will refer to some of his work later on. Effects may also flow on to children, not only from the families experiencing domestic violence but also, for example, from bullying or aggression by children of victims.

It is important not to pathologise domestic violence. I refer to the use of the battered women's syndrome, which is often used as a legal defence to murder. The defence recognises that women who have been exposed to long-term violence develop a syndrome similar to a form of learned helplessness, which prevents them from leaving a long-term relationship, and results in the death of the perpetrator as their only means of

defence. The pathologising of domestic violence shifts the focus of responsibility of abuse from the perpetrator to the victim. It is important that we never do that. Responsibility for violence remains absolutely with the perpetrator of that violence.

This bill is important because protection of victims of domestic violence is its basis. Under the reforms, victims will be protected automatically by an apprehended violence order if their alleged attacker is charged with certain serious personal violence offences. Automatic apprehended violence orders will be extended to all victims in these types of cases, irrespective of whether they are involved in a relationship with the person. The defendant will not be entitled to contest the order in court until the concurrent criminal charges have been finalised. This will spare victims of violence the trauma of being cross-examined at the hearing of apprehended violence orders as well as at the hearing of the criminal charges.

It is very important that we continue to protect women and children who are victims of domestic violence, and these reforms will ensure children of domestic violence victims are better protected. Previously, when a victim of domestic violence took out an apprehended violence order, the children were not necessarily included on the order. Under the new changes the presumption will be that children are included on the victim's apprehended violence order unless there are good reasons for them not to be. This will ensure that the focus of all parties will be on the best interests of the child and it will guarantee that the safety of the child and victim is taken into consideration.

This bill also introduces a new offence of domestic violence to help identify repeat offenders. Currently, offences of violence such as common assault do not specify whether the events occurred in a domestic situation, which can make it difficult to track habitual offenders. Being convicted of the new offence of domestic violence would leave a permanent stain on a person's record and would be readily identifiable by a sentencing court or a court making a bail determination. Other changes to domestic violence laws include allowing police to search for a greater range of potential weapons at premises where a domestic violence offence has occurred, and giving police the power to demand the name of a person suspected of being the subject of an apprehended violence order. Again, these are very important reforms. We have often seen tragedies resulting from people ignoring the conditions of apprehended violence orders and weapons being used in domestic violence situations.

One of the most important reforms introduced in this bill is the creation of a separate Act to deal with domestic violence offences. As has been mentioned, apprehended violence order provisions are in part 15A of the Crimes Act 1900. As announced by the Premier in March 2007, the Government is making a substantial number of amendments to the apprehended violence order legislation to improve protection for victims. This has provided a good opportunity to revisit the need for a separate Act dealing with domestic violence. Many amendments and additions have been made to apprehended violence order legislation over many years and, as a result, the drafting has been somewhat piecemeal.

It is also worth noting that our laws dealing with domestic violence and protecting victims have evolved in response to extensive lobbying, particularly by the women who work in refuges and court support schemes in New South Wales. These reforms are important, but we must understand the history of the legislation. Those of us who were working in women's organisations and with victims of domestic violence 20 years ago can see the significant changes that have provided greater protection for victims and their children.

As noted by the Law Reform Commission, the construction of part 15A is confusing and unwieldy. Many of the provisions are difficult to navigate and cumbersome. Additional difficulties arise for practitioners and police when considering what procedural legislation applies. For example, the Criminal Procedure Act 1986 does not apply to apprehended violence orders; the relevant legislation is the Local Courts (Criminal and Application Procedure) Rules 2003.

To make matters clearer and to avoid errors and cross-referencing, the new Act will be one-stop domestic violence legislation and will include application processes for apprehended domestic violence orders and apprehended personal violence orders, procedures for revocation and variation, an offence of contravening an apprehended violence order, and service and cost provisions. The creation of a stand-alone Act for apprehended violence orders means the legislation will be easier to amend because future amendments will be less likely to have an unintended impact on the provisions in the Crimes Act 1900.

Many other States and Territories have enacted legislation dealing with protection orders, restraining orders and breaches. Those Acts are easy to find and are user friendly for both police and practitioners.

A stand-alone Act in New South Wales would have the benefit of a clearly stated and prominent objectives section and a readily accessible index. The proposed new stand-alone Act contains the word "crimes" in the title to emphasise the seriousness of domestic violence and to give prominence to the legislation.

We all appreciate the seriousness of the crime of domestic violence. It astounds me, when I look at the advances we have made in the health arena, that regretfully we still often read in newspapers and hear on the news almost weekly that women have been murdered by their partners and that children have often witnessed these very violent events. I look forward to the day when we are no longer recording homicides as a result of intimate partner violence. If that happens I will know that I am truly living in an equal society in which a woman's right to live free from violence has been realised.

Dr Michael Flood has done a great deal of work in understanding the causes of violence in society, and particularly male violence and domestic violence. He delivered a paper to the Women's Domestic Violence Court Assistance Program at the celebration of its tenth anniversary on International Women's Day, which was celebrated on 8 March this year. He began his presentation by saying that he could offer some good news:

> As far as we can tell, rates of violence against women in Australia have declined. Comparing the 2006 survey by the ABS and the last national survey in 1996, smaller proportions of women experienced physical or sexual violence in the last 12 months than in the survey ten years ago.

He hastened to add that more than 440,000 women experienced violence in the past year. He went on to address why rates of violence may have declined:

> One factor is that community attitudes towards men's violence against women have improved. Another factor may be growing gender equality in relationships and families, reducing men's willingness or ability to enforce their dominance through violence and abuse.

Another factor he identified related to the women at the gathering; that is, the impact of women who work in organisations and services that provide support and advocacy for victims of domestic violence. He continued:

> The presence and influence of domestic violence services has played a role, in allowing women to leave violent relationships and leave them earlier.
>
> On the other hand, there are other social trends which worsen violence against women. These include shifts in family law which are exposing women and children to ongoing contact with violent ex-husbands and fathers, increases in poverty and inequality, and increased exposure to sexist and violence-supportive media in pornography and elsewhere.

Dr Flood went on to examine the causes and context of violence and he made some very interesting observations. He stated:

> The most well-documented determinants of men's violence against women can be found in gender norms and gender relations. Whether at individual, community, or societal levels, there are relationships between how gender is organised and violence against women.

He then went on to address men's gender-role attitudes and beliefs:

> A wide variety of studies have found that men's agreement with sexist, patriarchal, and/or sexually hostile attitudes is an important predictor of their use of violence against women.
>
> Putting this another way, some men are less likely to use violence than other men. Men who *do not* hold patriarchal and hostile gender norms are *less* likely than other men to use physical or sexual violence against an intimate partner.
>
> There is a gender gap in attitudes towards intimate partner violence, and this is shaped by attitudes towards gender. Traditional gender-role attitudes, whether held by women or men, are associated with greater acceptance of violence against women, while egalitarian attitudes are associated with less acceptance of violence.

Dr Flood also refers to relationships and families. He states:

> There are important determinants of intimate partner violence in relationships and families. A key factor here is the power relations between partners—are they egalitarian, or dominated by one partner? Cross-culturally, male economic and decision-making dominance in the family is one of the strongest predictors of societies showing high levels of violence against women. Men raised in patriarchal families are more likely to batter their intimate partners than men raised in egalitarian homes.
>
> Another factor at the level of intimate relationships and families is marital conflict. This conflict interacts with the power structure of the family. When conflict occurs in an asymmetrical power structure, there is a much higher risk of violence.

Dr Flood also referred to peer groups and organisational cultures as important influences. For example, he states:

> ... you'll get higher rates of sexual violence against young women in contexts characterised by gender segregation, an ethic of male sexual conquest, strong male bonding, high alcohol consumption, use of pornography and sexist social norms.

In talking about communities, cultures and nations, Dr Flood states:

> There is also international evidence that the gender roles and norms of entire cultures have an influence on intimate partner violence. Rates of men's violence against women are higher in cultures emphasising traditional gender codes, male dominance in families, male honour, and female chastity.

Dr Flood certainly identifies some of the resources in our community that have led to what he sees as the decline in violence against women. Finally, he talks about some prevention strategies. He says:

> Given that intimate partner violence is the outcome of a complex interplay of individual, relationship, social, and cultural factors, violence prevention too must work at multiple levels. There is a spectrum of primary prevention strategies.

He identifies those as strengthening individual knowledge and skills, promoting community education, educating providers, fostering coalitions and networks, changing organisational practices and influencing policies and legislation. It is in this area that this bill is responding to the work of many in our community who have been trying to reduce violence against women in our community and who are trying to protect women and children from violence within families. In that area, he says:

> We need legal and policy reform, including national and state plans of action to end violence against women …

The Iemma Government does have a plan. We are committed to key actions in our State Plan, particularly aimed at combating domestic violence. The Government's highest priorities and the creation of a new Act reflect the importance the Government attaches to more reform in this area. I certainly commend the bill to the House.

The Hon. ROBYN PARKER [3.11 p.m.]: I will make some brief comments in relation to the Crimes (Domestic and Personal Violence) Bill 2007. In doing so, I note that this is an area I had a great deal of involvement with both in my former career and since I have been a member of Parliament. Other honourable members have made some valid comments about domestic violence, particularly in relation to this bill, so I will try not to be repetitive. However, I note that domestic violence is a significant issue that society needs to grapple with. This legislation goes some way to address some of the issues, but sadly, as I am finding with the Government, while these sorts of measures are not before their time, are good, worthwhile initiatives and are not costly, the really hard work to be done from here is to provide more financial resources to those wonderful men and women who are at the coalface providing services to try to stem the tide of domestic violence.

As we know, domestic violence affects every social strata, every age, every marital status, every religion, every ethnicity and every part of society. It is an issue that affects us all and, as other honourable members have mentioned, we are now in the middle of 16 days of activism against violence against women, which started with the UNIFEM International White Ribbon Day against Violence against Women on 25 November. There are some wonderful initiatives to try to deal with domestic violence and violence against women generally. I commend those people who are providing services—the many refuges, the court support agencies, the police and a variety of social services—and I particularly acknowledge at this point, given that we are talking about a time when male leaders in the community are speaking out against domestic violence, those men who have been involved in the White Ribbon campaign.

Although we tend to talk about domestic violence as being only violence by men against women—no doubt that is the majority of cases statistically—this legislation recognises that there are other victims of domestic violence. Perpetrators can come in all forms. Domestic violence occurs between genders and from the opposite gender. It also occurs between siblings, between young persons and elders and between men. However, more often than not if children are in a violent environment they are victims and are definitely never unaffected innocent bystanders. It is good that this legislation acknowledges that fact.

Reported incidents of domestic violence are the only way we can accurately assess levels of domestic violence. With this classification at least we have some way of calculating more statistics of the level of domestic violence, but it is also totally reliant on the number of victims who come forward. What we need to do, and what this legislation will assist with, is to make sure we have an environment where people feel comfortable reporting, that they feel they have the resources and support, and that that report will go some way towards

resolving their situation. It is difficult to tell but, in some ways, the more reports we get may not necessarily mean that domestic violence is on the increase but that we have created a better environment.

One of the other things that is really important when we are talking about increasing resources and support for victims of domestic violence is a homicide review. In my mind it is another essential step so we can try to trace the background and the resource failures or the system failures that lead to a death from domestic violence. We have had campaigns where we have actively acknowledged the number of women in particular who have died from domestic violence. They have been very poignant. In a campaign last year we placed roses outside Parliament House for every woman who died, and there were too many. We need to trace back through the statistics to see what went wrong in each of those cases and how the support system can work better. That is essential, and the Government needs to grapple with that if it is truly serious about dealing with domestic violence.

Creating an offence of domestic violence in this legislation sends a strong message to the community that it is unacceptable. As I said before, it gives us the ability to record domestic violence offences on a criminal record. We will have the ability to record the offence of stalking or intimidation with the intention of causing someone to fear physical or mental harm, and this is a good thing to include. This will make it much easier when we come up with statistics, and statistics indicate that more that 1.6 million women in Australia have experienced some form of domestic violence since the age of 15. This should not happen in New South Wales. Statistics show there were 27,000 domestic violence cases in 2006-07, which is an increase of at least 5 per cent in the past 10 years. Other honourable members have noted that the cost of domestic violence to the economy could be something like $3 billion each year.

Statistics show that Aboriginal women are 31 times more likely to be hospitalised as a result of an assault than are non-indigenous women. I note also that the Auditor-General's report of this year states that the domestic violence helpline received 22,294 calls in 2005-06, an increase of 18.7 per cent on the previous two years. The Hunter region has an average annual increase in reported domestic violence of 8.2 per cent over the past 10 years compared to the State average of 5.2 per cent. The Lower Hunter Area Police Command is the worst ranked area in the State for assault, domestic violence assaults, breaches of apprehended domestic violence orders and domestic violence related malicious damage. Police in the command say there are an average of 350 incidents a month or more than 5 cases a day.

It has been recorded that 60 per cent of police time and resources go towards domestic violence and the Government is not providing the necessary resources to police, particularly sufficient domestic violence liaison officers, per head of population. For example, in the Hunter region there are four officers sharing three positions for an area that spans 9,000 square kilometres. These officers do not have a designated car and with the call-out rates taking up approximately 60 per cent of their work, this does not make sense.

Carrie's Place, a refuge at Maitland, provides outstanding support and assistance to victims of domestic violence. Its annual report stated that the refuge has to turn away nine out of every 10 cases because of a lack of accommodation. The New South Wales Government has cut funding from the Department of Community Services for Carrie's on High, an outreach service that provides services to women who are not able to get into a refuge. Carrie's provides services that the Supported Accommodation Assistance Program expects women's centres to provide to victims. It cannot continue to provide those services because the funding has been cut.

This week the Minister met with representatives of Carrie's Place and gave a commitment that he would consider its application for increased funding and make a decision before Christmas. I hope that decision is favourable because Carrie's has delivered an outstanding service. This month it received a prize and certificate of merit in the Australian crime prevention awards. I commend the Government for introducing the bill, but it must back it up with resources and services.

Other members have referred to the violence against women strategy, which has been melded into the Department of Community Services in recent years. Domestic violence is a crime and this bill reinforces that view. Taking that strategy out of the Attorney General's Department and putting it into the Department of Community Services portfolio diminishes the status of the strategy. The Government should review the placement of that unit, reveal the outcomes of the review of the strategy and get serious about funding adequately across the board for domestic violence prevention.

We have come a long way with domestic violence programs, community awareness and education. Hopefully these measures will go some way towards making things easier for victims, especially the court

process. The Government went to the last election with the slogan, "We are heading in the right direction but there's more to be done." The Government does need to do more on this issue. It is a small step in the right direction but the horrific statistics and deaths from domestic violence demonstrate that much more needs to be done. This will require significant resources, attention and prioritising across every portfolio rather than just tinkering at the edges. It will require a long-term resourcing and a whole-of-government response and a homicide review.

The Government must put the resources where they need to go over a long period of time so that refuges such as Carrie's Place do not have to come to a Minister with a begging bowl, when they are already offering an outstanding service in an area of high need. They should be acknowledged and supported. It is about time that the rhetoric was backed up with proper resources and that support was given. I acknowledge that this bill is a step in the right direction but all the domestic violence statistics show more needs to be done. The Government needs to get serious and set up a homicide review and provide proper resourcing to the police.

Ms LEE RHIANNON [3.26 p.m.]: I speak on the Crimes (Domestic and Personal Violence) Bill 2007. This bill is part of the package of domestic violence measures announced by Premier Morris Iemma in the lead-up to the March election this year. It is good to see the Labor Government putting an emphasis on domestic violence. The Greens believe that this emphasis is well overdue. We strongly support a number of sections in the bill, so I am pleased to congratulate the Labor Government on bringing it forward. However, there is a tabloid element to this, if we remember back to how Mr Iemma originally made the announcement. It was in the lead-up to the election and one very much gained the impression that he wanted to brand himself as action man on domestic violence. I say that because he came out with his name and shame statement that got him into hot water pretty quickly. However, that has been sorted out with this bill. Nevertheless, it reminds us that one should not be hasty with pre-election headlines when one is dealing with substantial policy that deeply affects people's lives.

The bill creates a new stand-alone Act to deal with domestic and personal violence. The Government explains this as giving full recognition to the seriousness of violence against women and children. Another way of looking at this is that taking domestic violence out of the Crimes Act somehow lessens the status of domestic violence as a crime. I understand that the Domestic Violence Advocacy Service has provided comments to the Government along these lines, warning that it would be a backward step if domestic violence was seen in the community or by police officers as a lesser offence. Domestic violence must be recognised as a form of violence that is just as serious as other forms of personal violence, not a special subclass. There are varying views from women's groups on this point. The point here is that more comprehensive consultation is needed before just blazing ahead with changes. Those differences between women's groups and legal groups reflect the complexity and reason for consultation, with considerable depth to it, so these issues can be resolved.

However, the Greens support moves to bring together domestic violence laws into one user-friendly format, so that people are aware of their legal rights and how to use them. Clearly, though, this relies on the Government running an education campaign to make sure people know about the new Act. The proof will be in the pudding, so to speak, on this point. Appropriate resources need to be applied. The good measures on which we are congratulating the Government today will fall away if they are not properly implemented so they can be utilised within the community.

The bill introduces a new, separate offence of domestic violence to help identify repeat offenders. The intent behind this, as explained by Premier Iemma before the election and in the agreement in principle speech, is to ensure that perpetrators cannot hide behind the generic offences of assault or grievous bodily harm: they will be clearly labelled as domestic violence offenders. There was significant controversy about this proposal at the time the Premier made the announcement. In particular, people were concerned that these so-called "name and shame" laws would really only succeed in naming and shaming the victim and the innocent children involved. It is of concern that victims of domestic violence may be less likely to report crimes or seek apprehended domestic violence orders. It simply underlines the complexity of making legal changes in this area.

At the time of the Premier's announcement many women's groups were highly critical of the attempts to name and shame. Yvonne Wilson from Griffity Women's Refuge said that naming and shaming is likely to affect the victim more than the abuser and that the victim would bear the brunt of public naming and shaming. Eva Cox from the Women's Electoral Lobby commented to the ABC that the lobby had asked the Government to look into a separate offence but not to introduce it without research or thought. She said:

> We asked them to assess the efficacy of it, we didn't ask them to introduce them, we asked them to look at it. They haven't looked at it. They've just decided to introduce it. And I think there's a lot of nuances about whether or not it works. The whole naming and shaming stuff is a political stunt which is designed to catch the headlines, which is exactly what they've done.

Similarly, Gaby Marcus, the Director of the Australian Domestic and Family Violence Clearinghouse at the University of New South Wales, commented in February this year:

> Naming and shaming wouldn't only name and shame the perpetrator. It would also end up naming and shaming the victim, who might very well have been trying to keep the violence out of the public eye, and certainly out of the eye of her neighbours or her family or her friends.

She called Premier Iemma's announcement a "knee-jerk policy making response". However, possibly in response to strong criticism by women's groups, the bill does not seem to promote public naming and shaming outside of the normal public court process. It appears that that is how the Government has responded to that criticism. If that is the case, that is welcome, but again we need to consult thoroughly before these measures are implemented. The permanent record of an offender will be affected, and judges in future sentencing and bail matters will be able to ascertain whether a person is a serial domestic violence offender. Again, it is a shame that this bill has not been subjected to more research and consideration so members and the community can judge whether this will be, on the whole, a useful change.

I wish to also touch on the provisions of the bill that will require a court, when making an apprehended domestic violence order for an adult, to include any child with whom the adult has a domestic relationship as a protected person under that order, unless there are good reasons for not doing so. Protecting children from domestic violence is obviously of paramount importance. The New South Wales Ombudsman reports that between July 2004 and June 2005 the Department of Community Services received 216,386 child protection reports, an increase of 16.8 per cent on the number received in 2003-04 and a 35.5 per cent increase on the number received in 2001-02. Concern that the child was a direct or indirect victim of domestic violence was the primary reason for making a report. Over 140,000 of these reports were found to require further assessment. Clearly, we need to act to protect children from domestic violence.

But it is unclear whether the measures in the bill are the most appropriate way to achieve this. The Greens are concerned about unintended consequences. Domestic violence advocates have raised concerns that this provision may discourage women from reporting domestic violence incidents if they know that their children will be automatically included in the apprehended violence order. Will this section lead to more children having to give evidence to overturn the presumption that they be included in the apprehended violence order? Will this section mean that children will be dragged into proceedings? Is this fair on the child involved? It is unclear what type of evidence will be needed to overturn the presumption that children are automatically included. Similarly, the definition of "domestic relationship" is wide and may encompass children who are far removed from the relationship. I ask the Minister to clarify the extent of the definition of "domestic relationship" in the bill. Who does it include? How does it work? What is it based on? We all agree, I am sure, that the level of domestic violence in New South Wales is appalling. In his 2006 special report entitled "Domestic violence: Improving Police Practice", the New South Wales Ombudsman reported:

> In 2005, the New South Wales Bureau of Crime Statistics and Research found that, between 1997 and 2004, the recorded rate of domestic assault increased by almost 40 per cent in the Sydney Statistical Division and more than 50 per cent across the State.
>
> In the 12 months to 30 June 2006, New South Wales Police recorded 26,429 domestic assaults, representing over 35 per cent of all recorded assaults. In 2004, most victims were women (71.1 per cent) and the majority of offenders were male (80.4 per cent). About one-third of victims were injured as a result of the assault, with 15 per cent suffering serious injuries such as fractures, burns and internal injuries. In the first nine months of 2006, 12 women and two children were murdered in domestic circumstances.

Those statistics are simply appalling. In a recently published paper entitled "Scoping Violence Against Women in Australia" Clare Sneddon of the Australian Domestic and Family Violence Clearinghouse wrote:

> Violence against women remains a hidden crime often shrouded in secrecy and shame, collusion and cover-up.

Direct health impacts from violence include injuries from assault, chronic health problems, high rates of depression and anxiety, mental illness, self-harm and suicide. For many women and children, domestic violence is a fast track to long-term homelessness, poverty and ongoing danger. In 2006 the Australian Institute of Health and Welfare found that domestic violence was the reason for accessing supported accommodation services for 49 per cent of women with children. Obviously we need to do much more to address domestic violence. The Greens are pleased with the bill overall. However, these statistics underline the urgency of addressing the issue and are a clear reminder to all of us that not enough is being done.

Rather than implementing ill-considered law and order responses, we need to increase services and support for victims of domestic violence. It is a bit rich for the Government to big-note its

tough-on-domestic-violence stance when there is still a desperate lack of good-quality refuge accommodation, and safe houses for women and their children and rural women's shelters are crying out for financial support. A recent study by the Women's Refuge Resource Centre found that 160 women and 163 children were turned away from 24 New South Wales refuges between 12 and 16 February this year. In other words, over four days more than 300 people—half of whom were women, the other half children—were turned away from refuges; there was nowhere for them to go.

New South Wales sorely lacks a good service system for victims of domestic violence, or an effective plan to implement one. Such a system is vital if domestic violence is to be tackled effectively. Yes, we want domestic violence out of the headlines. But we want it out of the headlines because it is not occurring. For that reason we need more resources at the front line for people who are giving assistance to these women and children, and we need laws put in place to compel perpetrators to change their ways.

Reverend the Hon. FRED NILE [3.40 p.m.]: The Christian Democratic Party supports the Crimes (Domestic and Personal Violence) Bill 2007, the principal object of which is to excise part 15A of the Crimes Act 1900 in order to create a separate Act that deals with domestic violence and associated issues and to incorporate into the new legislation amendments designed to reduce the stress and trauma for victims of domestic violence. These reforms arose out of extensive discussions between the Attorney General's Department, the New South Wales Police Force, the Ministry for Police and the Premier's Delivery Unit. As I have stated, the amendments are designed to reduce the stress and trauma for victims of domestic violence when progressing a matter through the criminal justice system and to ensure that a clear statement is made about the aggravated nature of an offence of violence committed in the context of a domestic relationship. The new separate Act will incorporate, in addition to the existing part 15A provisions, the following amendments:

(a) a specific offence of domestic violence;

(b) include children on apprehended violence orders unless the Court is satisfied that there are good reasons to not do so;

(c) make an apprehended personal violence order (APVO) automatic when there is a criminal charge pending. The automatic APVO will be confined to where a person stands charged with a serious personal violence offence;

(d) enable a police officer to request the disclosure of the identity of a person, provided that the officer has reasonable grounds to suspect that person is the subject of the apprehended violence order;

(e) substitute the phrase "provisional interim order" wherever "telephone interim order" appears and amend the Act where it indicates that a police officer can apply for an order by telephone to include a radio, facsimile and any other communication device; and

(f) relocate section 545B from the Crimes Act 1900 (stalking or intimation with intent to cause fear of physical or mental harm) into the new Act.

The Attorney General has indicated his plans to amend in due course section 87 of the Law Enforcement (Powers and Responsibilities) Act 2002 to expand the range of potential weapons that police officers may search for in premises in which a domestic violence offence has occurred. All members of the House, the female members particularly, have expressed deep concern about the abhorrent nature of domestic violence and how serious an issue it is in our society. Research has indicated that 57 per cent of Australian women have experienced some level of physical or sexual harm over their lives.

Reliable figures have also been produced by the Commonwealth Office of the Status of Women that estimate the total cost per annum of domestic violence in Australia to be $8.1 billion. That figure includes costs associated with pain and suffering, health and long-term productivity. In its report entitled "Domestic Violence in NSW, Briefing Paper No. 7/07" the New South Wales Parliamentary Library research service provided a breakdown of those figures. Members may regard those figures as excessive but they total over $4,557 million and include matters such as premature mortality; health; production, including absenteeism from work; consumption, including property replacement and bad debts; administration and other services, including legal, forensic and perpetrator programs; second generational considerations, including child care, changing schools and counselling; and the economic costs of transfers associated with victims compensation, income support and lost taxes. That total amount does not include a component for pain and suffering. Some governments are more interested in economic issues; perhaps those figures will draw attention to the seriousness of this problem.

The briefing paper draws attention also to the problem of getting women to report domestic violence. Hopefully this bill will provide incentive and encouragement to women to report domestic violence in greater numbers. It is claimed that the number of reports of domestic violence differs according to whether the perpetrator of the violence is the current or a previous partner of the victim. Of all reports of domestic violence,

27 per cent were reports of women having been victimised by a previous husband or partner, whereas only 8 per cent were reports of women having been victimised by a current husband or partner. In 90 per cent of incidents of intimate partner violence reported to police charges were laid, leading to conviction in 65 per cent of those cases. The low level of reporting of domestic violence is alarming, but it is consistent with matters of equal seriousness that we have debated in this Chamber on other occasions dealing with sexual assault. The report lists a number of reasons for the non-reporting of domestic violence incidents. They illustrate the need for counselling services for those experiencing domestic violence to give them the confidence to proceed with any complaint. The reasons listed are:

- The victim does not consider it serious enough.
- The victim dealt with it him/herself.
- The victim wants to keep the matter private, is ashamed or embarrassed.
- The victim is afraid of the offender.
- The victim does not think the police could or would do anything about it.

This is a widespread view and sometimes there is a basis for it. I continue:

- The victim blames him/herself.
- The victim does not realise that help is available.
- The victim is financially dependent on his/her partner.
- Alcohol or other drug use.

And so on. The Government and its agencies must ensure that women feel confident about coming forward to make a complaint. The Domestic Violence Advocacy Service, in partnership with the Council of Social Service of New South Wales, has prepared a valuable document dealing with domestic violence and its realities. The part of the document that defined "domestic violence" had a great impact on me. People often think of domestic violence as a male physically abusing a woman. This document, however, defines "domestic violence" in the following terms:

> Behaviour, within a domestic relationship, that involves an abuse of power and that is usually, though not exclusively, perpetrated by men against women and children. Domestic violence encompasses a range of behaviour including intimidation, coercion, emotional abuse, financial abuse, sexual abuse, physical abuse, isolation and psychological manipulation.

The document defines "domestic violence" further to include physical violence, including physical violence from punching, hitting and so on; sexual assault; rape; being forced to perform sexual acts without consent; the use of weapons—and the use of guns and knives may be actual or threatened; psychological and emotional abuse; continual put-downs; verbal harassment; making the victim think she is crazy; threatening harm to the victim and/or her friends; stalking and intimidation; and social isolation and abuse. It is a tragedy for the many women who are subjected to one or more forms of domestic violence.

A report entitled "Measuring Domestic Violence and Assault against Women: A Review of Literature and Statistics", compiled by Janet Phillips, of the Social Policy Section, estimates that only 36 per cent of female victims of physical assault and 19 per cent of female victims of sexual assault in Australia report the incident to police. That is a matter for deep concern. The report incorporates calculations from a 2005 survey of the Australian Bureau of Statistics that estimated that in the previous 12 months 363,000 women, or 4.7 percent of all Australian women, experienced physical violence, and that 126,100 women, or 1.6 per cent of all Australian women, experienced sexual violence. The same statistics estimated further that 2.56 million women, or 33 per cent of all Australian women, have experienced physical violence since the age of 15, and that 1.47 million women, or 19 per cent of all Australian women, have experienced sexual violence since the age of 15. Although they are an estimation, the figures are alarming and indicate the seriousness of domestic violence in our nation.

Although it is a debate for another time, it is important that the Government and the Parliament give consideration to the causes of domestic violence. What provokes a male to physically or sexually abuse his wife, de facto partner or girlfriend? What motivates such an attitude in a male? What influences men in our society to act in this way? I strongly believe that pornographic material is a contributing factor. I do not say it is the cause of all domestic violence, but it is surely a factor, particularly material depicting bondage and the physical abuse of women. It would be difficult to argue that the behaviour of men, seeing such material in a magazine or on

video, would not be adversely influenced. The Government must take such factors into account to address this problem. Of course, we must provide for the victim of such violence, but more benefit would derive from developing policies that prevent domestic violence in the first place. We support the bill.

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.52 p.m.], in reply: I thank all members who contributed to this debate. I note that the bill has widespread support across the House. Before I reply to the various issues raised by members, it is important that I comment on the Government's initiatives in relation to domestic violence generally. Domestic and family violence is an abhorrent crime that impacts mainly on women and children in the place in which they should feel the most safe: their home. It has a devastating effect on the lives of individuals and also a profound impact upon the economy. Members have referred to various statistics and costs. It is estimated by Access Economics to be costing our country $2.8 billion a year. The bill is another piece of the puzzle that the Government has put in place to deal with violence against women at home and matters relating to sexual consent.

Labor has introduced a number of measures in this regard. The Government has given police extended powers to apply for 24-hour telephone interim apprehended violence orders, and police can now apply for apprehended violence orders on behalf of a victim who is reluctant to proceed. The Government will provide $28 million over four years to improve support for victims by increasing counselling, accommodation and support, ensuring the provision of integrated case management and continuing the successful domestic violence court intervention model. In the recent budget the Treasurer announced that $16.8 million will be invested over four years to support victims of family and domestic violence. This includes support for integrated domestic violence case management projects, the expansion to 18 sites of the successful Staying Home, Leaving Violence Program, funding for the domestic violence court intervention program at Wagga Wagga and Campbelltown, and funding for the Women's Domestic Violence Court Assistance Scheme. Victims of domestic violence and sexual assault will also benefit from the budget's almost $8 million upgrade of two video conferencing, closed-circuit television and remote evidence witness facilities that are being rolled out across New South Wales. These can assist to reduce the trauma of appearing in court for vulnerable witnesses.

The Office for Women plays a strong role with regard to domestic violence. It funds programs aimed at educating young women about violent relationships. These include an educational program for high school students to assist young people to develop safer relationships, and a short DVD for young women about early warning signs of potentially abusive relationships. Staff from the Office for Women recently facilitated a very successful meeting between sector stakeholders and New South Wales Police about their initiatives to improve their response to domestic violence. Importantly, police sought feedback from the sector about its standard operating procedures and officer training across the State to make sure that they can deal more effectively with violence against women and children at home.

Recently the Government announced a review of the strategy to reduce violence against women. The Premier's aim in establishing this review is to establish central coordination of domestic and family violence policies and programs at the heart of government, within the Department of Premier and Cabinet. As part of this commitment, the review will look at the existing strategy together with other major programs and recommend how the current structures and resources may best be used in the future. The review is being overseen by a steering committee of New South Wales government chief executive offices and convened by the chair of the Human Service and Criminal Justice Chief Executive Officers.

In relation to the provision of additional resources, some members commented on the Federal Government's violence against women campaign. Whilst it was a good campaign, no additional funding was made available for the provision, for example, of women's refuges. The new Rudd Labor Government has already committed increased funding for the provision of homeless services, including refuges for women and children to escape domestic violence. We look forward to that money coming our way in New South Wales.

The Hon. John Ajaka argued that penalties for vexatious apprehended violence order applications should be increased. It is important to note that there are currently not offences in New South Wales legislation for vexatious applications. Offences for vexatious applications are problematic and unnecessary. The proposal is unnecessary because offences already exist that apply to persons who cause public mischief or make a false allegation. These offences require an appropriate mental element and cover situations where a deliberate false accusation is made. They also carry maximum penalties that include prison terms. It is problematic, given the circumstances under which an apprehended violence order application is likely to be made; it is quite possible that some applications that have no merit are made without any malicious intent. This sort of behaviour should not constitute a criminal offence, though it may justify an award of costs against the complainant. The Government believes that such an offence would simply have the effect of discouraging victims from applying for orders.

The Law Reform Commission considered closely the question of malicious and vexatious claims in Family Court proceedings and came to the conclusion that there was no evidence to support the claim. In considering what order to make the court must ensure that the parenting order is consistent with any apprehended violence order and does not expose a person to an unacceptable risk of family violence. Furthermore, in determining what is in a child's best interests, the court must consider, among other things, any family violence involving, or any apprehended violence order that applies to, the child or a member of the child's family. A claim of domestic violence does not necessarily impact on family law proceedings. The Government believes that anyone who hears of such extremely unethical behaviour should alert the Law Society.

Ms Lee Rhiannon raised the issue of a separate Act. In 2003 the New South Wales Law Reform Commission looked at the issue of separate legislation and recommended at that time that the apprehended violence order provisions remain in the Crimes Act for the time being. However, it recommended that the question of separate apprehended violence order legislation be revisited at a later date. During the present session the Government will introduce a substantial number of reforms to apprehended violence order legislation in order to update the existing part 15A and to provide improved protection to victims. This will provide a good opportunity to revisit whether there should be a separate Act dealing with domestic violence issues.

There have been many amendments and additions to domestic violence legislation over many years and, as a result, the drafting has been somewhat piecemeal. As noted by the Law Reform Commission, the construction of part 15A is confusing and unwieldy. Many of the provisions are difficult to navigate and are cumbersome. Additional difficulties arise for practitioners and police as to what procedural legislation applies. For example, the Criminal Procedure Act 1986 does not apply to apprehended violence orders, rather the Local Courts (Criminal and Applications Procedure) Rule 2003 applies.

To make matters clearer and avoid error and cross-referencing, a separate Act was drafted to create a one-stop domestic violence legislation. The new Act will contain an application process for apprehended domestic violence orders and apprehended personal violence orders, a procedure for revocation and variation, an offence of contravene an apprehended violence order, service provisions and cost provisions. The creation of a stand-alone Act for apprehended violence orders means that the Act is easier to amend as future amendments would be less likely to have unintended consequences on the provisions in the Crimes Act. This is also a similar process that is in place in other jurisdictions across the country.

The Government knows there are differing views on a separate Act versus an integrated Act, but I think it is important to note that there has been extensive consultation in relation to this bill. The Government has consulted with key stakeholders on the draft bill, including the Legal Aid Commission, the Police Force, the New South Wales Police ministry and the Domestic Violence Advocacy Service. There has been further consultation with the Chief Magistrate, the Director Of Public Prosecutions, Commissioner for Police, the Legal Aid Commission and the Apprehended Violence Legal Issues Coordinating Committee. That committee also includes the Department for Women, Local Courts and key services such as the Domestic Violence Advocacy Service and the Women's Domestic Violence Court Assistance Scheme.

Ms Lee Rhiannon asked what constitutes a domestic relationship. A "domestic relationship" is defined in the bill at new section 5. A domestic relationship includes the relative of a person in need of protection. A "relative" is defined at new section 6 and includes natural children and stepchildren, amongst others. Importantly, the provision to include children on apprehended violence orders includes the test that the court must be satisfied that there are good reasons not to include a child. It may well be, depending on the facts of the case, that a relative—for instance, a step-child—should not be included on the apprehended violence order for good reasons. For example, it may be the case that the child visits very infrequently and may not be deemed to be at risk.

This bill contains a very important protection for children in response to the argument about adverse impacts on children who have to appear in court. The amendments ensure that in proceedings relating to apprehended violence orders either for the protection of a child or a child as a witness, the court is to be closed to the public in all cases but for an exceptional few. The Government is committed to protecting children and is also committed to keeping them out of the courtroom. That is why the new section must be subject to section 41, which states that a child should not be required to give evidence in any manner about the matter unless the court is of the opinion that it is in the interests of justice for the child to do so. Likewise, any order made under the new section will have to have regard to section 42, which deals with relevant parenting orders that determine contact between the protected person, or between the defendant, and any child of either of those persons.

This bill ensures that domestic and personal violence is given the utmost priority in the legal system and ensures that the community, most specifically women and children, will be adequately protected and will feel assured that all is being done to prevent violence from being perpetrated upon them. At the same time, the Government's bill provides balance so that the rights of the defendant are considered along with the need for protection of the community. I again thank members for their contributions to the debate. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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.

TABLING OF PAPERS

The Hon. Penny Sharpe tabled the following papers:

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

New South Wales Fire Brigades
New South Wales Rural Fire Service
State Emergency Service.

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

Building and Construction Industry Long Service Payments Corporation
Environmental Trust
Festival Development Corporation
NSW Institute of Teachers
Sporting Injuries Committee

(3) Annual Reports (Departments) Act 1985 and Annual Reports (Statutory Bodies) Act 1984—Report of the Board of Studies and the Office of the Board of Studies for the year ended 30 June 2007.

(4) Anti-Discrimination Act 1977—Report of the Anti-Discrimination Board of New South Wales for the year ended 30 June 2007.

(5) Crimes (Administration of Sentences) Act 1999—Report of the State Parole Authority for the year ended 30 June 2007.

Ordered to be printed on motion by the Hon. Penny Sharpe.

AGRICULTURAL INDUSTRY SERVICES AMENDMENT BILL 2007

RICE MARKETING AMENDMENT BILL 2007

WINE GRAPES MARKETING BOARD (RECONSTITUTION) AMENDMENT BILL 2007

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.05 p.m.], on behalf of the Hon. Ian Macdonald: I move:

That these bills be now read a second time.

The Agricultural Industry Services Amendment Bill 2007, the Rice Marketing Amendment Bill 2007 and the Wine Grapes Marketing Board (Reconstitution) Amendment Bill will make a number of small but important

changes to the legislation that will improve administration of the Acts and ensure that the intention of the legislation is clear. The amendments will simplify and make more accountable how agricultural services committees determine and collect compulsory charges. The amendments will also improve the purchase and marketing of two of New South Wales' important agricultural products: wine grapes and rice. I am pleased to introduce these three bills, and will address each one in turn.

The first bill, the Agricultural Industry Services Amendment Bill, proposes amendments to the Agricultural Industries Services Act 1998. The Act provides for committees to deliver a range of services to growers in particular agricultural industries. The Act also provides for committees to collect a compulsory charge from the growers to fund the services. There are currently two such committees constituted under the Act, one for wine grape growers, the other for citrus growers. The committees both operate in the Riverina district. Under parallel legislation in Victoria, there are also committees for citrus and wine grape growers in the Murray Valley. These function in a similar way to the committees in the Riverina. The services provided by these committees include fruit fly control, promotion of local product, provision of market information to growers and training initiatives. The two industry committees are fully accountable to their growers and to Parliament for both their financial performance and their activities.

The legislation in Victoria, South Australia and New South Wales has the same intent. However, the procedures currently prescribed in New South Wales for grower contributions differ from those in the other States. They have also proved difficult to apply and to audit. Currently, the practice of the citrus growers' committee is to calculate the compulsory charge for each grower based on that grower's accumulated deliveries to all fruit receivers. The committee is then expected to invoice growers individually for that amount. This is not only time consuming, it is extremely difficult for the committees to do because they do not have access to individual farm consignment data. It is proposed to introduce an additional alternative method of collecting the compulsory rates from growers. The proposed additional collection method is much more workable because it allows for a third person, such as a fruit receiver, to collect rates on behalf of the committee. Receivers can collect rates from growers when those growers deliver their fruit to the receiver. The amount of the rate can be deducted from the delivery return issued to the grower. This will be a less costly and more easily accountable way to collect the rate.

The amendments also will enable inspectors to issue notices to receivers, requiring them to keep appropriate records and provide certain information relating to commodities received. This will ensure collected rates can be audited. The amendments aim to better reflect how transactions actually take place. They will be consistent also with what is prescribed in other States. Further, it will be much easier for New South Wales committees to comply with the provisions of the legislation and easier for the flow of funds to be audited. Both the wine grape and the citrus growers' committees support the intent of the proposal. The bill seeks one further amendment to the Agricultural Industry Services Act. This is to clarify who can be appointed to carry out inspections of fruit receipt records. Currently the Act can be interpreted to suggest that inspectors are exclusively regulatory officers employed by the Department of Primary Industries. It would be beneficial to have a broader definition of who can carry out inspections. Such a definition could ensure inspectors have appropriate accountancy and audit skills, and the flexibility to be on hand when required. The bill therefore provides a broader definition and allows for non-departmental inspectors to be appointed. These are sensible amendments that will assist industry to better carry out its business.

As this speech is quite lengthy, I seek leave to have the remainder of the second reading speech incorporated in *Hansard*.

Leave granted.

I now turn to the second bill, the Wine Grapes Marketing Board (Reconstitution) Amendment Bill.

The amendments in this bill will extend the operation of the Wine Grape Marketing Board (Reconstitution) Act 2003.

The Act is due to expire on 1 January 2008, and the proposed amendments will extend the Act until 1 January 2010.

The present Act resulted from a 2001 national competition review. Under the Act, the Wine Grapes Marketing Board was granted powers to facilitate a transition from a highly regulated market to a more competitive market.

This meant a move from centralised vesting and price controls to one where prices were individually negotiated by industry participants.

The transitional period has nearly finished without having facilitated grower and winery price negotiations as expected.

Extending the operation of the Act will mean that the Board still has the power to set default terms and conditions of payment for wine grape sales that are not the subject of a complying contract, as defined in the principal Act. These sales are commonly referred to as 'spot market' sales.

Extending the operation of the Act will allow more time for the transition to grower and winery negotiated supply contracts.

At the same time, it should be noted that a voluntary national code is being developed between the Winemaker's Federation of Australia and Wine Grape Growers Australia. The voluntary code will address contractual issues between growers and winemakers.

If the voluntary code is in place before the proposed revised expiry date of the Act, the need for the Act can be reconsidered at that time.

The Act provides for wineries to provide the Board with price schedules. The schedules are currently used for pricing wine grapes that are sold outside an appropriate, or complying, contract through "spot market sales".

While this provision was intended to improve price information for growers, in practice it proved to be somewhat inflexible and resulted in adverse outcomes for growers.

The indicative prices were often lower than they might otherwise have been, as wineries were cautious to avoid setting too high a price benchmark early in the season.

It is proposed to amend the Act to remove the need for wineries to submit price schedules to the Board for spot market sales.

Wineries and the Board both support the removal of this requirement.

Wineries will be free to advise growers less formally of the prices they are willing to pay, and to amend those prices either up or down as market conditions change.

This change will allow for more competition in the market. It will also encourage the development of marketing and negotiation skills by growers, in keeping with the original intention of the Act.

Importantly, the amendments will reduce regulatory red tape and its associated compliance costs in the wine industry.

I turn now to the third bill, the Rice Marketing Amendment Bill.

The bill will make amendments to the Rice Marketing Act 1983 which will effectively improve the international marketing of New South Wales rice.

The amendments will clarify the existing provisions for the operation of a single desk for exports of New South Wales rice.

As well, the amendments put in place requirements that ensure the independence of the Rice Marketing Board.

Rice growing has a long history in New South Wales. Commercial rice crops were first grown in 1924 in the New South Wales Riverina district.

Since then, the New South Wales rice industry has grown to become a major contributor to Australia's wealth.

The size of the industry is evident from the New South Wales figures for 2006. It employed over 8,000 people, and produced over one million tonnes of rice. Exports go to 75 countries around the world and have an annual value of over $400 million.

The current drought is unfortunately having a serious impact on the industry. Until we have good rains that replenish our dams, the annual rice harvest, and export earnings, will be much lower than these figures.

We all look forward to a recovery in production and exports. The significance of this export trade in a normal year, brings us to the present amendments.

The Rice Marketing Act provides for the establishment and activities of marketing boards for New South Wales commodities. In 2005, amendments were made to the Act, then called the Marketing of Primary Products Act 1983. The amendments changed the name of the Act to the Rice Marketing Act 1983.

Significantly, these amendments also provided for the deregulation of the New South Wales domestic rice market. The policy of deregulation had resulted from a national competition policy review of the Act, and was implemented through the introduction of authorised buyer permits.

The review also supported the retention of a single desk for the export of New South Wales rice. This means, it supported the principle of having only one approved buyer to sell New South Wales rice outside Australia.

The Rice Marketing Board issues the authorised buyer permits for those seeking to trade New South Wales rice on Australia's domestic market. A condition of the permits is that a permit holder cannot sell this rice to anyone outside Australia.

These amendments to the Rice Marketing Act have now been in operation for twelve months. It has become evident during this time that further minor amendment is needed to the Act.

This will ensure that the intent of the national competition policy review with regard to exports of New South Wales rice is set out clearly in the legislation.

Currently, because the Act does not specifically provide for a single export desk, the Rice Marketing Board maintains it administratively. It does so by granting only one buyer the approval to sell New South Wales rice outside Australia.

A particular advantage of the single export desk is the strong negotiating power on world markets it gives to rice growers, without cost to the Australian taxpayer.

However, the Act does not explicitly state that the Rice Marketing Board can give only one of its authorised buyers an exclusive export approval.

The underlying intention of the Act is clear. It says the Board must include a particular condition when appointing authorised buyers.

This condition prohibits the authorised buyer from selling or supplying New South Wales rice outside Australia, except with the Board's written approval. This is an important point.

The bill makes it clear that the Board can only give its approval to one authorised buyer to export rice. The bill further provides that no other authorised buyer can be given approval to sell rice outside Australia while such an undertaking is in place.

There is another potential problem with the Act as it stands. Currently, it is not an offence for a person who is not the appointed exporter, to sell or supply New South Wales rice outside Australia.

This means that someone who is not approved by the Board to do so, could sell rice grown in this State outside Australia without being prosecuted.

The proposed amendments to the Rice Marketing Act will make it an offence for anyone who is not specifically appointed as the preferred export buyer to sell New South Wales rice outside Australia.

As well as providing clarity for the single export desk, the bill also puts in place provisions to increase the independence of the Rice Marketing Board.

It does this by increasing by two the number of independent Board members.

The Board will now have three industry-elected members and four members from outside the rice growing industry.

In addition, the Chairperson of the Board will now be elected from one of the independent members. This provision will take effect once the term of the current Chairperson expires.

These are significant changes. They will overcome any perception of conflicts of interest.

Overall, these changes will provide a clear way forward for the marketing of this State's rice internationally. They also ensure that the Board has broad representation, and that the interests of all growers are protected.

These changes can only benefit the industry, the economy and the community.

The amendments in these three bills bring effective and practical improvements to different aspects of the sale and marketing of important agricultural products, and the provision of services to growers.

The amendments to the Agricultural Industry Services Act ensure that the agricultural industry services committees have consistent, fair and transparent processes for the collection of the charges that support the committees.

The amendments to the Wine Grapes Marketing (Reconstitution) Act will allow for the transition to a more competitive market for wine grapes.

The amendments to the Rice Marketing Act will make very clear the arrangements under which New South Wales Rice is sold overseas.

In all, the amendments will be advantageous for farmers and growers, and for those marketing their produce.

I commend these bills to the House.

The Hon. RICK COLLESS [4.10 p.m.]: I lead for the Opposition in this debate. The Opposition does not oppose the Agricultural Industry Services Amendment Bill 2007. The Rice Marketing Amendment Bill 2007 and the Wine Grapes Marketing (Reconstitution) Amendment Bill 2007 are cognate bills. The object of the principal bill is to amend the Agricultural Industry Services Act 1998, which is the principal Act, to require an agricultural industry services committee's five-year plan to outline the services it proposes to perform and the rates that will have to be levied to pay for those services; to enable rates to be collected on behalf of an agricultural industry services committee by persons to whom the committee's constituents deliver produce; to make it clear that rates levied to fund the provision of particular agricultural industry services may be applied towards the provision of those services only; to provide that inspectors under the Act do not have to be officers of the Department of Primary Industries; to enable inspectors under the Act to require primary producers and others to keep certain records; and to enact savings and transitional provisions and to make other minor, consequential and ancillary amendments.

As I indicated, the Opposition will not oppose the bill and the cognate bills. From my understanding, and from briefings received by the Coalition, under this legislation the levies set to promote marketing and to fund education and research for citrus fruit and wine grape growers will remain, but will be levied on wholesalers rather than growers. The bill aims to simplify the system and to make committees more accountable about how they determine and collect these compulsory charges. At present marketing board members must ascertain each farmer's production level, assign a levy to it and collect the levy from each producer. Under this legislation, the wholesaler will be able to apply a levy accurately to the individual grower's production value and then the authorities will be able to collect the money from 20 or 30 wholesalers instead of thousands of producers.

There are two committees in the Riverina district—one for wine grape growers and the other for citrus growers. Under parallel legislation in Victoria, there are similar committees in the Murray Valley. The legislation in Victoria, South Australia and New South Wales has the same intent, but the procedures required in New South Wales are harder to apply and audit. At the moment the citrus growers committee calculates the compulsory charge for each grower based on that grower's accumulated deliveries to all fruit receivers. The committee then invoices growers individually for that amount. That is time consuming and hard to do because the committees do not have access to individual farm consignment data.

The proposed additional rate collection method will allow for a third person, such as a fruit receiver, to collect rates on behalf of the committee. Receivers will be able to collect rates from growers when the growers deliver their fruit. Provided the system works that way, it will be easier and more accurate and it will allow the correct amount to be levied. It will be far more efficient and effective not only in promoting and marketing rice and wine grapes but also in ensuring that fruit fly and other pests are restricted. Growers will have an opportunity to pick up a net amount in dry times and not have to look for money. We all know these areas are currently experiencing very hard times because of restricted water availability. This measure will help them to get through these difficult times.

The amendments are consistent with the legislation in the other States. The Minister stated in the second reading speech that the wine grape and citrus growers committees support the intent of the proposed amendments. The New South Wales fruit packers and processors in these industries are also said to support the proposals. The Coalition believes that this legislation is in the best long-term interests of the growers. We have not heard any negative comments from the New South Wales Farmers Association, the Ricegrowers' Association or the Winegrowers Association.

However, the Coalition is concerned that the inspectors' representatives be appointed in conjunction with the growers and their organisations to ensure that they carry out inspections efficiently and effectively. In addition, those inspectors must have accountancy, economic and audit skills so that they are able to ensure that the system is not being rorted in any way. They should ensure that the correct moneys are collected and spent properly in the areas the growers' organisations wish them to be spent for the advantage of the industry. The Coalition will keep an eye on the implementation of this legislation and see how it works. We will stay in touch with the growers—as we usually do—to ensure that this legislation works for them and not against them.

Mr IAN COHEN [4.15 p.m.]: I speak on behalf of the Greens to comment on the Agricultural Industry Services Amendment Bill 2007, the Wine Grapes Marketing (Reconstitution) Amendment Bill 2007 and the Rice Marketing Amendment Bill 2007. These three bills make changes to the boards and committees that provide services to primary producers. The Agricultural Industry Services Amendment Bill 2007 makes changes to the mechanism for collecting rates payable to industry services committees. Money from these rates is used for research, education and marketing in the Murrumbidgee Irrigation Area. This includes compulsory charges and provision of services to industry.

The Wine Grapes Marketing (Reconstitution) Amendment Bill 2007 seeks to extend the Act for another two years to allow time for a voluntary industry code of conduct to be developed. The Rice Marketing Amendment Bill 2007 makes some minor changes to the Act clarifying the intention of the single desk for the export of New South Wales rice. It also increases the independence of the Rice Marketing Board by creating two more positions appointed from independent areas rather than from the industry. The bill deals with inspections and makes it clear that primary producers are required to keep records. It increases accountability overall and the Greens commend that. It is good to see that the bill provides for consistency with other States. In general, it contains a number of efficiency measures that are, according to previous speakers, supported by the major representative bodies in the industries. The Greens certainly do not oppose these bills.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.12 p.m.], in reply: I thank members for their contributions to this debate on what is essentially an administrative issue. The Hon. Rick Colless referred to inspectors. I can assure him that the inspectors will have skills in accounting, auditing and financial services. These are minor but necessary amendments to three Acts that are very important to primary producers in the Murrumbidgee Irrigation Area. They will clarify and simplify arrangements for boards and committees providing services to the producers of citrus fruit, wine grapes and rice. I commend the bills to the House.

Question—That these bills be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bills read a second time.

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

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That these bills be now read a third time.

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

PREVENTION OF CRUELTY TO ANIMALS AMENDMENT (PROSECUTIONS) BILL 2007

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.17 p.m.], on behalf of the Hon. Ian Macdonald: I move:

That this bill be now read a second time.

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

Leave granted.

The Prevention of Cruelty to Animals Amendment (Prosecutions) bill 2007 brings an effective reform to prosecutions made under the Prevention of Cruelty to Animals Act 1979 and its associated Regulations.

The bill proposes one amendment. The amendment is to specify who may initiate proceedings to prosecute a breach of the Act or Regulations.

The Prevention of Cruelty to Animals Act 1979 provides for the prevention of cruelty to animals, and the promotion of animal welfare by carers.

Currently, neither the Act nor the Regulations specify who has the authority to prosecute. Therefore, by virtue of the Criminal Procedure Act 1986, anyone can institute a prosecution under the Prevention of Cruelty to Animals Act.

Specifically, section 14 of the Criminal Procedure Act enables anyone under any Act to institute proceedings, unless the right to do so is specified or constrained by that Act.

The present bill proposes a range of people and organisations who may bring forward court proceedings. They include:

- an approved charitable organisation,
- an officer of an approved charitable organisation,
- the responsible Minister,
- the Director-General of the Department of Primary Industries,
- a person who has the written consent of the responsible Minister or the Director-General, and
- a police officer, or any other person or body prescribed by the Regulations,

Unfortunately, the existing provisions have created an inefficient and costly situation in New South Wales.

In the past six years in New South Wales, private parties have brought forward several prosecutions of cruelty to animals offences. None of the cases have been successful.

Two of the parties withdrew their actions and in another case, issues arose because of the appropriateness of evidence.

These cases imposed unnecessary time and costs on the New South Wales judicial system.

The proposed amendment seeks to overcome this inefficient situation.

Currently, only authorised officers may enter and inspect premises to investigate reported breaches of animal cruelty.

Therefore, those authorised officers are best placed to bring forward a case for prosecution.

There has been significant concern that the Prevention of Cruelty to Animals Act may encourage trespass. This is because, like authorised officers, individuals need to collect evidence of a breach of animal cruelty. Individuals who are not authorised officers are unlikely to have the landowner's permission to collect evidence.

However, any evidence obtained during trespass is inadmissible in court, and the case could be struck out as a result.

By not specifying who may initiate a prosecution under the Act, there is a possibility that trespass may be seen to be tacitly encouraged.

There is another significant concern with trespass. This is concern about on-farm biosecurity. The ramifications of biosecurity breaches are all too clear in light of the current equine influenza crisis in New South Wales.

So far, the New South Wales Government has spent over $20 million dollars to manage horse flu. Further, the Government has committed hundreds of employees and thousands of work hours to its management. As well, private sector vets have assisted enormously.

The New South Wales horse community has suffered significant hardship during this outbreak with all sectors of the industry, big and small business, affected.

The financial ramifications of a pest or disease incursion can be catastrophic to the viability of farming properties. In some circumstances, depending on the size of the farm, a pest or disease can also have significant implications to the industry, and the New South Wales economy.

An incursion or a pest or disease could mean that a farmer is required to provide expensive and timely treatment to affected animals and their associated equipment. In more dire circumstances, a farmer may need to destroy their entire stock.

Members of the house may recall an instance of this, with the devastating impact from the highly virulent Newcastle Disease in 1999. Poultry farmers on the New South Wales Central Coast had to endure significant financial and emotional hardship as a result of having to destroy entire livestock.

Almost two million poultry on sixty-five affected farms had to be destroyed. The stock provided more than 17% of the State's production of chicken meat and almost 7% of the Australian total.

Farmers lost significant income. In addition, to the loss of income from the diseased stock, farmers lost a further six months of income because of the inability to restock immediately. The sheer logistics of supplying chicks meant that some farmers had to wait more then six months to restock.

Due to the capital intensive nature of the industry most producers carry large loans. This loss of income meant that some farms were sold or are involved in Farm Debt Mediation, even today, almost ten years after the outbreak.

The virulency of the disease also meant that the community around Mangrove Mountain also had to endue the imposition of extraordinary quarantine restrictions.

Farm life offers many challenges to survival, besides plant and animal diseases. Farmers have to cope with droughts, floods, bushfires and volatile domestic and world markets.

There is also the challenge of surviving the ageing of the farming population with the loss of younger people leaving for the cities and the subsequent shrinking of towns and villages. In addition, there is pressure for industry to be cleaner and greener.

Members will agree that introducing provisions under the Act to remove any encouragement to deliberately or inadvertently trespass to obtain inadmissible evidence is necessary to help prevent the financial and emotional hardship caused by pest or disease incursions.

The bill before the house today, proposes one amendment to the Act to specify who may institute proceedings for an offence against the Prevention of Cruelty to Animals Act and associated Regulations.

The bill provides that an approved charitable organisation or an officer of an approved charitable organisation will, rightfully, have the authority to prosecute.

The Australian Royal Society for the Protection of Cruelty to Animals – the RSPCA and the New South Wales Animal Welfare League are two such charitable organisations that will be able to continue to investigate and initiate court proceedings for breaches under this animal welfare legislation.

The mission of the RSPCA is to be the lead authority in Australia to prevent cruelty to animals. The RSPCA upholds this important mandate by actively promoting animal care and protection through education and enforcement.

Extensively trained RSPCA inspectors are empowered under the Prevention of Cruelty to Animals Act to investigate complaints against all kinds of animals in all kinds of situations.

Similarly, the Animal Welfare League of New South Wales also operates a team of inspectors who investigate allegations of cruelty to animals. The League is Australia's second largest animal welfare charity and is a leader in current practice relating to animal welfare issues and takes an active role in review and development of animal welfare legislation.

These organisations have extensively trained personnel that can appropriately manage situations of animal cruelty and the subsequent enforcement activities. The RSPCA and the Animal Welfare League also have decades of invaluable experience managing and successfully prosecuting breaches of animal cruelty.

During 2006 - 2007 the RSPCA brought forward 90% of prosecutions made under the Prevention of Cruelty to Animals Act.

Members of the House will agree that it is appropriate that trained personnel only should be given the power to inspect breaches of animal cruelty and consequently gather the appropriate information to successfully mount a prosecution.

Police officers will also be able to institute a prosecution for a breach of the Prevention to Cruelty to Animals Act or associated Regulations. Police officers are extensively trained in the lawful collection of evidence, including laws related to trespass. In addition, the New South Wales Police Force has for a number of years, also successfully prosecuted breaches of animal cruelty.

Members of the house will agree that it is appropriate that a police officer will continue to be able to bring forward a prosecution of animal cruelty.

I would also like to emphasis to the House that the proposed amendment in the bill is consistent with a trend in environmental legislation in New South Wales to regulate the manner in which private prosecutions are available.

One example of this trend is the Plantations and Reafforestation Act 1999. This New South Wales law deals with timber plantations and the reafforestation of land and permits only private prosecutions with the consent of the Minister administering the Act.

I seek the support of the house to progress the amendment to the Prevention of Cruelty to Animal Act 1979.

Only authorised officers may enter and inspect premises to investigate reported breaches of animal cruelty.

It follows that, only those authorised officers can legitimately and in practical terms, bring forward a case for prosecution without any impute of illegality or biosecurity breach.

I commend the bill to the House.

The Hon. DON HARWIN [4.18 p.m.]: The ill-treatment of animals is an unimaginably despicable act and it deserves the harshest of penalties. The Coalition parties have a long tradition of defending animals from mistreatment. Former Premier Askin left our side of politics with a very proud legacy on animal welfare policy. His support for the RSPCA and the imposition of harsher penalties under this legislation were an important part of that legacy. The Prevention of Cruelty to Animals Amendment (Prosecutions) Bill 2007 amends the Prevention of Cruelty to Animals Act 1979 to specify the organisations, persons and groups authorised to institute proceedings for an offence under the Act. Currently any person may initiate proceedings for an offence prescribed under the Act. Most proceedings are instituted by animal welfare organisations, but some are launched as private prosecutions.

According to the Government, over the past six years none of the proceedings initiated by private individuals has been successful. Apparently, the evidence adduced in such cases has been found to be questionable. Consequently, such cases are viewed as costly and inefficient for the judicial system. However, as my colleague the member for Terrigal noted in the other place, this contention is disputed by the Barristers Animal Welfare Panel. I refer honourable members to the remarks of the member for Terrigal. Also in the debate in the other place, the Minister contended that private individuals do not have the authorised powers relating to the gathering of evidence needed for a case to be successfully prosecuted. For example, individuals have neither the necessary powers of entry nor the requisite powers to remove evidence.

The solution proposed by the Government is to appoint certain approved non-government organisations as the authorised bodies to institute prosecutions under the Act. The bill amends the Act to specify that only the following would be authorised to initiate a prosecution: an approved charitable organisation, an officer who is an authorised inspector under the Act with inspectorial powers and the power to issue penalty notices under the Act, a police officer, the Minister or the Director General of the Department of Primary Industries, a person with the written consent of the Minister or the director general or any other person or persons prescribed by the regulations for that purpose.

According to the Minister, at this stage the only approved charitable organisations will be the RSPCA and the New South Wales Animal Welfare League. Both of these organisations are well respected in the community and I note that both have given the bill their support. That is important to know given the serious acts of cruelty that we are talking about when we consider this legislation. Despite this, the Coalition is conscious that as charitable organisations neither can be said to be well resourced for the responsibility that the Government is placing on them. Both the RSPCA and the Animal Welfare League are volunteer-based groups funded through donations and bequests. Certainly, neither organisation will receive financial support from the Government, even though they will be performing the role of law enforcement as a result of this legislation.

However, as the Parliamentary Secretary noted in reply in the other place, 101 of 154 prosecutions they launched in 2006-07 have been successful. That is also something I think the House needs to take into consideration. The member for Terrigal made a number of other remarks outlining some concerns and asked the Government to adjourn debate on the bill in the other place for more time to consider the issues that gave rise to these concerns. This was not granted and we now have the legislation in this House. Therefore, the Opposition has to consider what it will do in those circumstances. We have concluded that while the bill does not represent an ideal outcome, the Opposition will not vote against it.

Mr IAN COHEN [4.22 p.m.]: The Greens do not support the Prevention of Cruelty to Animals Amendment (Prosecutions) Bill 2007, which seeks to restrict—despite its name—who may initiate proceedings for a breach of the Prevention of Cruelty to Animals Act or regulations. It seeks to ensure that proceedings can be brought only by an approved charitable organisation, an inspector authorised under the Act, the Minister or the Director General of the Department of Primary Industries, a person with the written consent of the Minister or the director general, or a police officer or another person prescribed by regulation. Animal protection groups feel that removal of the right of private parties to commence proceedings for animal cruelty breaches will be a major setback for animal rights. Apart from that, the Greens do not believe it is in the public interest to remove the right of third party prosecutions. Private party prosecutions are a strong English common law tradition and should not be done away with in a piecemeal manner.

By requiring private parties to get the approval of the Minister to launch a prosecution, the process becomes politicised as it would be subject to the consent of a political representative. This undermines prosecutorial independence. Moreover, charities such as the RSPCA do not have the resources to monitor compliance with the legislation so the Prevention of Cruelty to Animals Act will, in effect, become legislation that is not adequately policed. We have seen in this House issues with the Minister for Primary Industries—I do not have a great deal of faith in the opportunities that would be afforded under the new regime if the bill goes ahead. Although Opposition members in the lower House spoke with a degree of intention, I understand the Opposition does not oppose the bill, and that is a great pity. According to Brian Sherman, the Director of Voiceless, the fund for animals:

> The right for third parties to commence prosecutions against animal cruelty crimes reflect a common law right that dates back hundreds of years. It is a fundamental aspect of the criminal justice system and the New South Wales Government is proposing to take it away. If this bill is successful, crimes against animals will be less vigorously prosecuted. We will have to rely chiefly on the RSPCA which is an overburdened charitable organisation, forced to focus on what the community perceives to be the most heinous crimes.

Great attention will then be given to domestic animals—dogs and cats and such like—but very often animals in rural areas as well as in commercial enterprises will suffer because they cannot receive adequate attention from the RSPCA. That is a great pity. The bill is also unnecessary. The Director of Public Prosecutions already has the power to take over and discontinue a private prosecution for an indictable offence or a prescribed summary offence. The Government has expressed that a reason for this legislation is "… to remove any encouragement to deliberately or inadvertently trespass to obtain evidence". However, there are already well-established principles by which courts determine whether to admit or exclude evidence that has been illegally obtained. Similarly, there already exist laws to protect parties from trespass. There is no reason these could not be used in the relevance circumstances envisaged here. Of all the inspections leading to prosecution matters commence by Animal Liberation, no evidence was gathered unlawfully. In fact, it was often done with the assistance of police.

The fact there have been several unsuccessful private prosecutions, including two that were withdrawn, is put forward by the Government as another reason for the legislation. I hardly think that is a substantive argument for removing the right of private prosecutions. Furthermore, I understand that there have been at least two successful private prosecutions, including one against a manager of a battery farm of 320,000 hens, who pleaded guilty to animal cruelty. This was the first successful prosecution of a battery hen farmer in New South Wales. Another case was against a dairy farmer who pleaded guilty to repeatedly beating to the head with a

heavy vat spanner a dairy cow confined in a milking stall because it kept kicking the milking cups due to pain from mastitis.

Animal Liberation has commenced nine prosecutions in the past nine years. Aside from the two successful ones already mentioned, another matter was settled with Australia Meat Holdings, with the feedlot company agreeing to provide shade for all cattle after 1,200 cattle had died from heat stress. Surely everyone in this House would acknowledge the appropriateness of such action. The matter was settled out of court and it was acknowledged to be an appropriate complaint, with remedial action having been taken and the problem being resolved. This bill is likely to inhibit the prospect of test cases about the protective reach of the statute. Many of the matters commenced by Animal Liberation, particularly in relation to intensive livestock industries, are complex and challenging. It is highly unlikely that such cases would be mounted by the people specified in the bill. It is an onerous task to attempt to expand and embrace elements of suffering and pain that the judiciary have not been presented with before. However, it is important to do so and this avenue should not be stifled by the Government.

A famous test case involved Arna, a solitary circus elephant. Numerous experts were called to give evidence that she suffered psychologically from solitude. Facts harnessed during the case are used internationally by wildlife protection organisations. In the early 1990s there was an important case in Tasmania whereby animal advocate Pam Clarke successfully brought a private prosecution against the Golden Egg Farm. The judge delivered an 18-page judgment finding the owners guilty of seven counts of cruelty to hens.

The organisation and individuals authorised by legislation to bring prosecutions are highly unlikely to take on corporate farming enterprises and challenge practices that can be described as institutionalised cruelty. While many practices undertaken by factory farms are exempt from prevention of cruelty to animals legislation, the boundaries are shifting as to what is acceptable. The European Union, for example, is phasing out the use of battery cages for hens. Sow stalls have been banned in some countries. But while there are practices that are seen by some as business as usual and under this bill would be highly unlikely to be challenged, there is certainly value in the avenue of challenge to be open to private individuals.

Another reason put forward by the Government for this bill is biosecurity risk. In a speech in the other place Michael Daley stated that the Act "may encourage trespass and raise biosecurity concerns because private individuals are permitted to commence proceedings for an offence under the Act". Such concerns can be addressed by the enforcement of existing laws against trespass. There is no evidence of any biosecurity risks or disease outbreaks that have been related in any way to private citizen prosecutions. Such concerns have primarily been caused by the activities of the livestock industries themselves.

Groups such as Animal Liberation, Voiceless and the Barristers Animal Welfare Panel have expressed great concern about this legislation. The Prevention of Cruelty to Animals Act is a public interest statute. It is desirable that its enforcement should be proper and wide ranging. The bill undermines that public interest by removing the right to private prosecutions. It is also inconsistent with other States, which permit private prosecutions for animal protection statutes. The bill is an attempt to restrain any significant investigations and prosecutions that could challenge approved routine practices by livestock industries and others that permit questionable practices on animals that may be proven to be in breach of the Prevention of Cruelty to Animals Act. The Greens do not support the bill.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.32 p.m.], in reply: I thank honourable members for their contributions to this debate. These amendments are sensible and necessary. They bring important reform in the areas of prosecutions made under the Prevention of Cruelty to Animals Act and associated regulations. The Hon. Don Harwin spoke about offences being investigated by charitable organisations. The Government is on record that charitable organisations such as the Animal Welfare League and the RSPCA have a proud history and record of protecting animal welfare in New South Wales. The RSPCA dates back to the 1870s in this State. With this long history the public has a clear understanding and recognition of the job they do in enforcing animal welfare laws. Importantly, the public holds these organisations in very high regard.

For those reasons the Government believes it is entirely appropriate that they continue their enforcement role which, in New South Wales, is adequately resourced. It is important to note that in the last financial year the New South Wales Government provided $420,000 to the RSPCA. It is important to note also that under this scheme police are regarded as an enforcement agency. To assist the RSPCA, further expertise is legally provided through the Department of Primary Industries and the rural lands protection boards. The charitable agencies can also request further assistance and expertise as they may require, such as veterinary or wildlife advice.

In relation to the issues raised by Mr Ian Cohen, there are many examples in legislation in New South Wales and other jurisdictions in Australia where the right to bring a private prosecution is denied. This legislation does not completely deny it; this legislation is different in that it does not attempt to deny the right of a private individual to bring a prosecution under the Act. However, it means that such a prosecution proposal must undergo a review to ensure it has some reasonable chance of standing before the court. There have been some claims and counterclaims during debate about whether or not certain cases have been successful. It is my advice that in the last six years there have been no successful private prosecutions in this State under this Act.

The prosecution will be subject to a review, which will ensure that there is a better chance of it standing up in court. This includes presenting admissible evidence and an understanding of what constitutes an offence under the Act. Significantly, the review also means that where action may already be underway, for instance by the RSPCA, duplication can be avoided. The issue is not about whether there is evidence that a private prosecution has previously caused a biosecurity breach; it is about responsible management of biosecurity risks. If the recent equine influenza outbreak has taught us anything, it is that prevention is better than cure.

Private prosecutions have the real potential to pose a biosecurity risk because private individuals do not have the authority to obtain evidence without consent, neither do private individuals necessarily have the requisite training, understanding and experience in investigations, part of which is how to manage biosecurity risks. This is especially the case if groups of people are involved in the trespass. There is a further potential biosecurity risk. A trespass may not be detected immediately, especially if no animal welfare issues are found by trespassers. Time is the crucial factor in preventing disease transmission, whether within a property or outside a property. Unnoticed trespass could create the right circumstances for widespread biosecurity risk.

Mr Ian Cohen referred also to the politicisation of the decision-making process. I put on record the following. The processes to which the Director of Public Prosecutions and the Minister are subject both provide for transparent review. In particular, the Minister is directly accountable to Parliament and to the electorate for his actions. The Minister and the Director General of the Department of Primary Industries will carefully consider any application to bring a third party prosecution in light of the available evidence and the objects of the Act. Further, they have the knowledge to include in their considerations any other regulatory activity on the issue, for example, by the RSPCA or the New South Wales Animal Welfare League. As well, they will take into account regulatory activity under such Acts as the Animal Research Act and the Exhibited Animals Act.

The Hon. Don Harwin: This reply is longer than the two speakers who spoke in the second reading debate.

The Hon. PENNY SHARPE: I hope that the honourable member is very pleased that I am providing such a detailed response to the issues raised. The Department of Primary Industries has a unit dedicated to animal welfare that can provide the Minister with objective, expert advice on prosecutions proposed under the Act. Further, it has a litigation unit. While it does not undertake prosecutions under the Prevention of Cruelty to Animals Act, it can provide objective legal advice to the Minister. Importantly, the organisations with authority to prosecute also have a hierarchy of other animal welfare interventions before they need to bring a prosecution. These interventions often bring about a behaviour change in the owner or care of the animal without having to resort to prosecutions. Neither the Director of Public Prosecutions nor individuals attempting to bring a prosecution have these means at their disposal. I thank all members for their contributions and commend the bill to the House.

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

The House divided.

Ayes, 28

Mr Brown	Ms Griffin	Ms Sharpe
Mr Catanzariti	Mr Kelly	Mr Smith
Mr Clarke	Mr Khan	Mr Tsang
Mr Colless	Mr Lynn	Mr Veitch
Mr Costa	Mr Macdonald	Mr West
Ms Cusack	Mr Mason-Cox	Ms Westwood
Ms Fazio	Reverend Dr Moyes	
Ms Ficarra	Reverend Nile	*Tellers,*
Miss Gardiner	Mrs Pavey	Mr Donnelly
Mr Gay	Ms Robertson	Mr Harwin

Noes, 4

Ms Hale
Ms Rhiannon

Tellers,
Mr Cohen
Dr Kaye

Question 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.

SYDNEY WATER CATCHMENT MANAGEMENT AMENDMENT BILL 2007

Second Reading

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [4.46 p.m.], on behalf of the Hon. Ian Macdonald: I move:

That this bill be now read a second time.

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

Leave granted.

A major reform in urban water supply management started in 1998 with the Sydney Water Catchment Management Act 1998 which, amongst other things, brought about the creation of the Sydney Catchment Authority.

The Sydney Catchment Authority has proved a highly successful operation. It continues to supply high quality water to Sydney Water, two Councils, and approximately 60 other customers. The Catchment Authority has brought in a high standard for managing and protecting the water supply catchments, and it has improved most of its infrastructure to contemporary standards.

The Sydney Water Catchment Management Amendment Bill 2007 represents the next step in the reform process that commenced nearly a decade ago. The bill provides for better administrative clarity and stronger statutory powers so that the Sydney Catchment Authority can continue to evolve and better meet its functions.

Act review

The proposals in the result from a robust review of the Act and wide consultation. The 2004 statutory five-year review of the Sydney Water Catchment Management Act 1998 confirmed that the Act's objectives remain appropriate and its objectives are being met.

The review went on to identify useful amendments, including:

- Allowing for more effective and efficient regulatory powers for the Catchment Authority; and
- Improving management of the audit of Sydney's drinking water supply catchments.

The review further proposed important administrative improvements, including:

- Clarifying that the Catchment Authority has clear statutory powers to create new assets;

- Removing the requirement for the Catchment Authority's operating licence to define all Catchment Authority functions as specified in all relevant Acts, instead concentrating on only those that are relevant to key Acts;

- Removing the requirement for the Catchment Authority to enter into a memorandum of understanding with the Water Administration Ministerial Corporation as the Catchment Authority now has a water management licence; and

- Finally, the review called for de-proclaiming those Special Areas that no longer have operational purposes for the Catchment Authority.

The Sydney Water Catchment Management Amendment Bill 2007 addresses these matters in the following manner. Operating licence the proposed amendment to section 15 (1) of the Act removes the requirement for the Catchment Authority's operating licence to define all functions which the agency exercises under any Act.

The amendment does not limit the regulatory control provided by the operating licence. Members should note that, under section 26 (1) of the Act, the operating licence is subject to the terms and conditions set by the Governor.

The Sydney Catchment Authority's power to construct

The bill adds to the functions of the Catchment Authority by enabling it to provide or construct systems or services for supplying raw water and to install new works. Currently, the Act is silent on this function.

Powers of entry

The existing powers under the Act for entry onto land for Sydney Catchment Authority authorised officers do not extend to entry for the purposes of carrying out the Catchment Authority's essential statutory planning functions. The bill, therefore, gives authorised officers the same powers of entry that councils have under Division 1A of Part 6 of the Environmental Planning and Assessment Act 1979.

Arrangements for drawing water

The bill provides the Catchment Authority with control over all water in its water storages or pipelines, subject to the operating licence. The Catchment Authority may enter into an arrangement with any person to take water from the Catchment Authority's water storages or pipelines. This amendment overcomes a long-standing question regarding whether, in certain circumstances, persons drawing water from Catchment Authority infrastructure should be its customers or should hold water management licences under the Water Act 1912.

MoU with the Water Administration Ministerial Corporation

Unlike at the commencement of the Act in 1999, the Catchment Authority now holds a water management licence granted by the Water Administration Ministerial Corporation under the Water Act 1912. The licence addresses all regulatory matters associated with water resource management. It provides the appropriate regulatory relationship between the Catchment Authority and the Department of Water and Energy. As a result, the need for a Memorandum of Understanding between the Catchment Authority and the Water Administration Ministerial Corporation is now redundant.

Catchment audits

The bill now allows the Minister administering the Act to appoint a public authority or other person to develop and approve catchment health indicators. These indicators are used to measure trends in environmental health by the catchment auditors.

To provide for more meaningful trend analysis of the health of the drinking water catchment, the bill amends the frequency of catchment audits to every three years, rather than the current two years. This timeframe aligns with that of State of the environment reporting requirements.

The Government—and no doubt all Members in this House—want to ensure that the findings of the catchment audits are acted on. To that end, the bill requires the Catchment Authority to evaluate the findings of a catchment audit and to incorporate those findings in its risk management framework and into its programs and other activities.

Repeal of certain special areas

The legislation requires that lands declared as Special Areas for the purposes of protecting drinking water catchments can only be repealed by amendment to the Act. This requirement provides an important safeguard to their long term protection for water supply purposes.

The bill removes six sites that are listed as Special Areas that are no longer required for the Catchment Authority's operational purposes. Three of these sites are located at Penrith, Richmond and Windsor and are very small pieces of land—each less than five square metres.

A further area for de-proclamation is ten kilometres of the Nepean River, between Wilton and Menangle, behind Devine's Weir. As far as we know, it was declared Special Area in a long forgotten idea to use the weir for drinking water.

Another area—O'Hares Creek—is the site of long-abandoned plans for new dams. O'Hares Creek is within Dharawal National Park and will therefore remain appropriately protected for its biodiversity values.

Finally, Woodford Dam in the Blue Mountains is not currently used for water supply and therefore does not require protection as a Special Area. The site is part of the Blue Mountains National Park.

New Catchment Authority powers

Much of the bill before the House today goes to giving the Sydney Catchment Authority the necessary and appropriate means to protect the catchments surrounding the Catchment Authority's dams. The following amendments improve the ability of the Catchment Authority to take appropriate action against those activities that are likely to cause damage to or detrimentally affect the quality of water or the health of our catchments.

Power to direct

The bill inserts into the Act provisions similar to sections 91 and 96 of the Protection of the Environment Operations Act 1991. These provisions give the Catchment Authority power to issue catchment correction and protection notices in relation to all activities that have, or are likely to have, an adverse impact upon water quality or catchment health, in special areas or controlled areas.

Requirement to answer questions

Currently, Catchment Authority authorised officers do not have the power to require answers to questions and the production of information and documents from alleged offenders. The amendments introduced in Part 6B of the bill give the Sydney Catchment Authority investigative powers consistent with the National Parks and Wildlife Act 1974.

The bill increases the maximum penalty for the existing offences relating to illegal diversion of water and discharge of substances into works and other offences under the Act. The bill also establishes the penalties for the new offences I outlined earlier.

The bill also increases the maximum penalties available for offences under the regulations of the Sydney Water Catchment Management Act to $44,000 for a corporation and $22,000 for an individual.

Evidentiary provisions

At present the Sydney Water Catchment Management Act does not contain any evidentiary provisions, which means that the Sydney Catchment Authority is put to strict proof in all matters necessary to achieve a successful prosecution. These matters include the validity of appointment of officers and the admissibility of instruments. The bill inserts a number of evidentiary provisions which are consistent with those in the Protection of the Environment Operations Act 1997.

Land and Environment Court

Under current arrangements, matters in relation to the Sydney Water Catchment Management Act can only be heard by the Supreme Court or a local court. The bill allows proceedings under the Act to be dealt with by both the Land and Environment Court and a local court. This is more appropriate, given the nature of the offences.

Conclusion

The proposals set out in the bill provide greater capacity to meet the challenges of managing Sydney's water supply. The Government is committed to managing and protecting the catchment areas and water supply infrastructure to continue ensuring our drinking water remains of the highest standard. The amendments contained in this bill will align the powers and functions of the Sydney Catchment Authority with the latest natural resource management framework.

I commend the bill to the House.

The Hon. RICK COLLESS [4.46 p.m.]: The object of the Sydney Water Catchment Management Amendment Bill 2007 is to amend the Sydney Water Catchment Management Act 1998 as a result of the ministerial review of the Act under section 75. The bill appears to provide for better administrative arrangements and a penalties regime that is more in keeping with the potentially significant consequences of poisoning or polluting Sydney's drinking water. People need to be able to confidently drink Sydney's water. For that reason, the Sydney Catchment Authority must be provided with adequate powers, including penalties as well as sufficient resources, to adequately police the catchment area.

The purpose of the bill, as we understand it, is to provide for administrative improvements, stronger and clearer definitions of the authority's statutory powers, higher penalties, and scope for penalty enforcement. The bill removes sections of the Act that are redundant due to changes in other legislation. The bill also makes provision for the repeal of certain orders declaring lands to be special areas—areas no longer required for operational purposes by the Sydney Catchment Authority. These are administrative improvements that enable the authority to function as a bulk water provider without being drawn into overlapping areas of allied, but different, environmental responsibility, such as the environment protection legislation.

The Opposition understands and accepts the need for clearer and cleaner lines of demarcation. However, the Opposition has a number of concerns that I will bring to the attention of the House. I foreshadow that the Opposition will move amendments to the bill in Committee. The Opposition's first concern is that a Sydney Catchment Authority officer, in the process of issuing a catchment correction notice or a catchment protection notice, is able to do so orally. It should not be beyond the scope of a modern government to issue the notice in writing, giving some reason or reasons for that notice. We understand that a written notice is to be

provided subsequently, but the Opposition believes that it is important that it be done at the time of the issuing of the notice. It is important that due process be seen to be done. When officers walk onto private land with all the powers of the State behind them, it is important to retain public confidence in those powers and in their administration.

When one considers that an incorporated farmer, an industrialist or a business owner might end up with a $250,000 fine as a result of such a visit, or that a private resident might end up with a $120,000 fine, surely one would agree that it is important to begin the process as it would be concluded. As my colleague the shadow Minister for Climate Change and the Environment in another place said, if it is good enough for police to issue a notice in writing when they issue a traffic infringement notice for a few hundred dollars, it is every bit as good for an officer of the Sydney Catchment Authority to issue a notice in writing, particularly given that the fines are so large.

The Opposition's second concern is the absence of any definition of catchment health indicators. If the Government is committed to improving the status and standard of Sydney's drinking water it is necessary not only that there be catchment audits, as provided for in the Act, but that catchment health indicators used to measure trends in environmental health be transparent, objective and scientifically based. I think it is also important that there needs to a regular monitoring of the catchment rather than just talking about indicators. If we are to have some sort of monitoring of that catchment area then it is also important that there be a certain amount of flexibility in the system to enable the monitoring to make the required changes.

The bill provides that a public authority or person approved by the Minister is charged with the development and approval of those health indicators. It is improvement that a person appointed by the Minister, rather than a nominee of the Minister, conducts those audits. However, it is disappointing that there is no provision for the public and interested stakeholders to contribute to the development of those indicators or for those indicators to be publicly known. The bill is unclear in that regard despite the Minister's assurances in his speech in reply. As the Shadow Minister flagged in another place, the Coalition would prefer that the bill be amended to ensure that those indicators are properly prescribed by legislation. With fines of up to a quarter of a million dollars, it seems only reasonable that people know exactly what the outcome criteria of the Sydney Catchment Authority will be.

The Opposition has sought an assurance that the bill will provide for routine agricultural management activities as provided for in the Native Vegetation Act and the Threatened Species Conservation Act. The Minister in his reply has offered those assurances that the provisions in the bill will not affect routine agricultural management activities and certainly the members of the Coalition will be keeping a close eye on that as the implementation of the bill proceeds. The Coalition hopes that this bill will now serve to improve the workability of the Act and the capacity of the authority to deliver clean drinking water to the people of Sydney, and will not be opposing the bill.

Mr IAN COHEN [4.52 p.m.]: The Greens do not oppose the Sydney Water Catchment Management Amendment Bill 2007, which alters the administrative arrangements for the Sydney Catchment Authority and introduces a new penalty regime. It follows from the statutory five-year review carried out in 2004. The catchments of the Warragamba, Upper Nepean, Blue Mountains, Shoalhaven and Woronora river systems supply water to more than four million people in New South Wales. The catchments cover almost 16,000 square kilometres. It is imperative that the water quality in these catchments is protected for a safe drinking water supply and for the environmental health of the area. The bill seeks to provide for the Minister to appoint any public authority or person to develop and approve catchment health indicators and retains the power of the Minister to appoint any public authority or person to conduct catchment audits.

The bill removes the requirement in the terms and conditions of the operating licence that require the Sydney Catchment Authority to compile indicators on the ecological health of the catchment. This role is transferred to a public authority or other person appointed by the Minister. While there may be some advantage in having these indicators prepared by a public authority or person other than the Sydney Catchment Authority, two issues arise. First, there should be a requirement that the authority or person be independent and appropriately qualified. Second, it is not clear to what extent these indicators will be reflected in the operating licence and whether performance against them will be considered in the operational audit. That is, will the Sydney Catchment Authority be required to report performance against these indicators? It appears that performance against them will be considered in the catchment audit. I ask the Minister to clarify this.

The bill changes arrangements for catchment audits and provides for these to be conducted by the public authority or other person appointed by the Minister to develop the catchment indicators. Section 42B

requires the Sydney Catchment Authority to evaluate the findings of the audit and incorporate them into its risk framework and other catchment management activities. The Greens support these provisions. The bill increases the time between catchment audits from every 2 years to every 3 years, in line with the standard operating environment reporting obligations. While the Greens as a general rule prefer reporting to occur on a frequent basis, it seems reasonable to have audits at a similar frequency to the state of the environment reporting. The Greens prevented the decrease in frequency of the state of the environment reports from every three years to every four years some time ago.

The bill also broadens the Sydney Catchment Authority's powers to issue catchment correction and protection notices in relation to all activities that have, or are likely to have, an impact upon water quality or catchment health in special or controlled areas. These sections of the Act are amended to strengthen the Sydney Catchment Authority's powers in relation to issuing catchment correction and catchment protection notices and requiring the provision of information. The changes appear to strengthen the Sydney Catchment Authority's ability to protect the catchment and the Greens support these provisions. New offences are created by the bill, including failure to comply with a catchment correction notice or catchment protection notice, the obstruction of a person carrying out works in accordance with notice and obstruction or impersonation of an authorised officer.

The bill also inserts some evidentiary provisions into the Act to allow necessary steps to be taken to stop impacts on water quality, in line with those in the Protection of the Environment Operations Act. New maximum penalties are set that courts can impose for breaches of the Act. It is appropriate that a strong set of offences and penalties be in place in order to protect our drinking water supply from pollution or poisoning. Water quality needs to be adequately monitored and protected. It is crucial that the Government provides adequate resources for the monitoring of compliance under this legislation. The bill seeks to remove the requirement for the operating licence granted to the Sydney Catchment Authority to define all of the Sydney Catchment Authority's functions. This appears designed to enable the requirements for developing catchment health indicators to be transferred from the Sydney Catchment Authority to another public authority or person.

An overarching operating licence that covers all of the Sydney Catchment Authority's functions has been a key instrument in ensuring the accountability of the Sydney Catchment Authority, as it has also been for Sydney Water and Hunter Water. This was also one of the most important recommendations of the McClellan inquiry following the water crisis. The overarching operating licence is important as it ensures that all of the authority's functions are included in one concise instrument and can be assessed in the operational audit process. Allowing requirements to rest outside the operating licence would result in fragmentation of regulation and diminish the scope of the audit. The Sydney Catchment Authority, the Sydney Water Corporation and the Hunter Water Corporation have consistently tried to diminish the role of the operating licence at each operating licence review process. Proposed section 42D, in schedule 1 [18], however, allows the operating licence to include terms and conditions relating to the Sydney Water Authority's activities, including catchment activities, and for the Independent Pricing and Regulatory Authority to recommend such terms and conditions. In short, while the licence may still include all aspects of the Sydney Catchment Authority's activities, it will no longer be mandatory for it to do so.

Under the bill six special areas would be repealed, as they are no longer required for operational purposes. There are two areas of these that conservation groups have concerns about. Devine's Weir special area is part of proposed additions to the Upper Nepean State conservation area. In the early 1980s the Wran Government proposed a Nepean state recreation area in a Macarthur regional planning study. An Upper Nepean State conservation area was created on 28 February 2007. The Nepean River within the Devine's Weir special area is a scenic river gorge and should be subject to the provisions of section 45 (1) of the Sydney Water Catchment Management Act 1998 so that it may be added to the existing State conservation area.

O'Hares Creek special area contains the Dharawal Nature Reserve and State conservation area. Revocation of the special area was deferred to give protection to the catchment until the reserves were in place. Additions to these reserves include a rifle range and three quarries on Crown land. The rifle range was proposed by the Government to be relocated to the Bargo State conservation area, which the Greens oppose. An Illawarra extractive industries study in the 1980s recommended the closure of the clay quarries in the O'Hares Creek area in favour of conservation. One of the quarries has closed down. The revocation of O'Hares Creek special area would leave the residual Crown lands with no protection. Revocation should be deferred whilst these matters are being resolved. There is no reason to have this revocation come forward now.

One possibility is that the Sydney Catchment Authority wants to get out before coalmining commences in the area to avoid blame for the probable damage to the Nepean River from the Douglas 7 mining. The

authority will be glad to be shot of it before the mining damages the river. Longwall coalmining is wrecking rivers in New South Wales and the Sydney water catchment by cracking riverbeds, disturbing aquifers, destabilising sandstone cliff formations. This damage to rivers from mining often results in cliff collapse and causes serious pollution and is placing undue stress on our water catchments at a time when a great percentage of New South Wales is in drought. It is incomprehensible that to protect the water catchment people can be fined thousands of dollars for simply walking into a special area, yet mining companies are permitted to undertake actions that cause the cracking of riverbeds in the very catchment that supplies Sydney's drinking water.

I will move an amendment to remove these two areas from schedule 7 to the bill. I encourage the Government to transfer the areas to the National Parks or State Conservation Areas, which it is able to do pursuant to section 45 of the Act. In the interim, they should remain special areas in order to be afforded adequate protection. The Government and the Minister's office were cooperative in relation to the Sydney Water Catchment Management Amendment Bill 2006 when the Greens moved a similar amendment in order to protect a rock wallaby habitat. In that case, the Government agreed to the amendment and the relevant part of the area was removed from the revocation.

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

The House continued to sit.

Mr IAN COHEN: A further point about the de-proclamation of these areas is that under section 45 of the Act the Minister is supposed to review the land before de-proclaiming areas and determining whether they would be better reserved under the National Parks and Wildlife Act. I want to know whether this review occurred and what advice the Minister received.

I ask the Parliamentary Secretary to note this important issue. I hope the conservation representatives, who I am sure are very concerned about it, have alerted the Government to this matter. According to the Government, the Devine's Weir special area is 9 hectares in size. Having looked at the gazettal and maps, it seems that it is in fact 100 hectares in size. The figure of 9 hectares may be a mistake. The map shows an area of 10,000 metres, or one kilometre, of river by 100 metres. The buffer zone equals 100 hectares, or 10,000 square metres. The special area covers 10 kilometres to the Nepean River and a conservative estimate of the width is 100 metres. Representatives of the conservation movement have carefully looked at this issue. I provide to the Minister a copy of the surveyor's information and official map of the catchment area and the relevant page from the *Government Gazette. I* am concerned that the Devine's Weir special area is, in fact, 100 hectares in size. I ask the Minister to clarify the size of the special area. I am happy to admit it if I am wrong, but I am concerned about this matter. I again ask the Government to determine, before de-proclaiming these areas, whether they should be reserved under the National Parks and Wildlife Act. It is a small request on the part of the conservation movement.

The bill will enable the Sydney Catchment Authority to authorise employees and contractors to enter and occupy land for the purpose of its statutory planning functions. These are similar powers to those in the Environmental Planning and Assessment Act. The Greens are supportive of this move. As I indicated, in Committee I will move an amendment to the legislation, but the Greens do not oppose the bill. I hope the Government can resolve the discrepancy about the special area. I again put to the Government the importance of those areas and refer to past agreeable action taken by the Government in similar situations to simply not de-proclaim areas. The Greens support the bill.

Reverend the Hon. FRED NILE [5.05 p.m.]: The Christian Democratic Party supports the Sydney Water Catchment Management Amendment Bill 2007, which will enable the Sydney Catchment Authority to continue its successful operations supplying high-quality water to Sydney Water, two councils and approximately 60 other customers. The Sydney Catchment Authority has implemented a high standard for managing and protecting the Sydney water supply catchments and has improved most of its infrastructure to contemporary standards. The bill represents the next step in the reform process, which commenced nearly a decade ago and is the result of the 2004 statutory five-year review of the overriding legislation. The bill provides for better administrative clarity and stronger statutory powers so that the Sydney Catchment Authority can continue to evolve and better meet its functions. The bill involves a number of administrative matters that will assist the Sydney Catchment Authority to be more efficient.

The bill provides for the Minister to appoint any public authority or person to develop and approve catchment health indicators and retains the power of the Minister to appoint any public authority or person to conduct catchment audits. The Sydney Catchment Authority will continue to report to the Minister on its progress against catchment audit findings. The bill changes the frequency of catchment audits to once every three years, rather than every two years. It broadens the Sydney Catchment Authority's powers to issue catchment correction and protection notices in relation to all activities that have, or are likely to have, an impact upon water quality or catchment health in special or controlled areas, as defined in the Act. It creates new offences, such as the failure to comply with a catchment correction notice or catchment protection notice, the obstruction of a person carrying out works in accordance with a notice and the obstruction or impersonation of an unauthorised officer.

The bill sets new maximum penalties that a court can impose for breaches of the Act. It removes the requirement for the operating licence granted to the Sydney Catchment Authority to define all the authority's functions required by an Act of Parliament but does not limit the regulatory control provided by the operating licence. It adds to the Sydney Catchment Authority's functions by enabling it to provide or construct systems or services for supplying raw water and to install new works, which are not specifically provided for in the Act. It also provides the authority with control over all water in its water storages or pipelines, including entering into an arrangement with any person to take water from the authority's water storages or pipelines. These practical matters will aid the Sydney Catchment Authority in its role so that it can continue to guarantee the supply of water to the people of Sydney and surrounding areas. The Christian Democratic Party supports the bill.

Dr JOHN KAYE [5.08 p.m.]: I support the Sydney Water Catchment Management Amendment Bill. I echo the comments of my colleague Mr Ian Cohen and the concerns he raised in relation to the bill. The Sydney Catchment Authority was created in 1999 after the McClellan inquiry and concern about the quality and biological security of the water supply to Sydney. The idea behind the creation of the Sydney Catchment Authority was to better manage the reservoirs and the catchments to improve water quality and to produce a lower bacteriological load in the water being provided to Sydney Water. The Sydney Catchment Authority supplies bulk water to the Sydney Water Corporation, which then retails it to Sydney Water consumers. A commercial arrangement between the Sydney Catchment Authority and the Sydney Water Corporation provides for bulk-priced water as set by the Independent Pricing and Regulatory Tribunal with two-part charging: a volumetric charge and a fixed availability charge.

It is important to understand that the amount of money paid by the Sydney Water Corporation to the Sydney Catchment Authority under the volumetric charge changes in proportion to the volume of water that is purchased by Sydney Water Corporation and then onsold to water consumers, whereas the fixed availability charge is exactly that: it is fixed and does not change in proportion to the amount of water being consumed. The Sydney Catchment Authority is about to have a large-scale competitor for bulk water supply—the Kurnell desalination plant, which will provide, when it is operating, up to 250 mega litres per day of bulk water supply. A different situation will apply, however. The desalination plant is owned by Sydney Desalination Pty Limited, which is at this stage a wholly owned subsidiary of Sydney Water Corporation, hence there will need to be a regime of dispatch to allocate water purchases by Sydney Water Corporation between the desalination plant and the Sydney Catchment Authority. The key issue between which source of water will be used is the incremental cost of the volumetric charge of water.

The Hon. Rick Colless: Point of order: Clearly the bill is about the management of Sydney Water Catchment rather than the way water is distributed to Sydney users. The line being taken by the member is clearly outside the objects of the bill and is, therefore, out of order.

Dr JOHN KAYE: To the point of order: The bill is about changing the licence of the Sydney Catchment Authority. As I was saying, the Sydney Catchment Authority is the bulk water provider of the Sydney Water Corporation, which is the retail provider for four million residents of New South Wales. The arrangements and the competition provided by the desalination plant are entirely germane to the leave of the bill.

The PRESIDENT: Order! While normally it is the practice in this House to allow members some reasonably wide latitude in their contributions to second reading debates, members nevertheless must confine their comments generally to the leave of the long title of the bill before the House. The long title of this bill is "An Act to amend the Sydney Water Catchment Management Act 1998 with respect to the functions of the Sydney Catchment Authority, its operating licence, catchment audits, special areas and enforcement powers and to offences and evidentiary matters and for other purposes." Dr John Kaye will confine his comments to matters as defined by the long title of the bill.

Dr JOHN KAYE: I will address the first of the elements of the long title, which relates to the operations licence of the Sydney Catchment Authority inasmuch as it is affected by the dispatch of the desalination plant. The issue is that the Minister responsible for Sydney water is on the record as saying that water is purchased from the Sydney Catchment Authority at 56¢ a kilolitre, whereas water will come from the desalination plant at 60¢ a kilolitre. Those remarks echo remarks made on 21 September 2007 on ABC television's *Stateline* by Kerrie Schott, the Chief Executive of the Sydney Water Corporation, who said:

> The cost of water from the desal plant works out at 60¢ a kilo litre and that compares to what I am currently paying the catchment authority, which is about 56¢ a kilo litre. So it is a little bit more expensive but it is not that bad.

The point is—and this directly affects the operations of the Sydney Catchment Authority—that sometime in the very near future, after two years during which the desalination plant will be operated at full capacity over its proving period, a decision will be made on the dispatch of the desalination plant, and when that decision is made it will have a huge impact on the way in which the Sydney Catchment Authority operates and the amount of water that is drawn down from the Sydney Catchment Authority.

Our point is that those figures are bogus simply because they do not compare apples with apples; they compare dislike and non-commensurate numbers. The 56¢ a kilolitre from the Sydney Catchment Authority bears no relationship whatsoever to the volumetric charge that the Independent Pricing and Regulatory Tribunal established for the Sydney Catchment Authority in its 1 July 2005 determination, in which it set the volumetric charge at 11.625¢ a kilolitre, not 56 ¢ a kilolitre. Even if included in that figure is an amount for the cost of filtration, the figure arrived at is nowhere near 56 cents a kilolitre. One can only suspect that Kerrie Schott and the Minister, Nathan Rees, have included in the 56¢ a kilolitre for the Sydney Catchment Authority the capital charges—the fixed availability charges that the Sydney Catchment Authority obtains from Sydney Water Corporation.

If capital charges are included to make a comparison between the 60¢ a kilolitre for the desalination plant, which is purely an operations charge, and the 56c a kilolitre for the Sydney Catchment Authority, which include capital charges, the desalination plant obtains an unfair advantage. This is clearly a political tactic designed to disadvantage the Sydney Catchment Authority and to advantage the desalination plant. Over the next two years, as the operations regime for the desalination plant is worked out, it will be very important that this House monitors the situation carefully to ensure that those sorts of dodgy figures are not allowed to infect the way in which the dispatch of the desalination plant is calculated. The Greens do not oppose the bill.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.16 p.m.], in reply: The Sydney Water Catchment Management Amendment Bill has been introduced so that the Sydney Catchment Authority can continue to deliver excellent quality metropolitan water supplies through a sustained commitment to asset management and catchment protection. The Government has made substantial progress in delivering improvements to the supply of raw water, managing water quality and in improving the health of our catchments. The bill gives further effect to the recommendations flowing from Justice McClellan's 1999 inquiry.

The bill builds on the existing provisions of the Sydney Water Catchment Management Act and strengthens some powers while clarifying others. The proposed amendments also improve the ability of the Sydney Catchment Authority to take appropriate action against those activities that have damaged or are likely to cause damage to or detrimentally affect the quality of water or the health of our catchments. Verbal catchment correction notices must be followed up within 72 hours with a written notice. The Sydney catchment is vast, covering thousands of square kilometres. Issuing a verbal notice will practically only occur in urgent circumstances, where failure to address an issue immediately may lead to an offence being committed that would constitute a threat to the health of the catchment or water supply.

A member raised concerns about the definition of catchment health indicators. The bill transfers the role of compiling indicators on the ecological health of the catchment from the Sydney Catchment Authority to a public authority or other person appointed by the Minister. This shift sees the catchment health indicators being independently compiled and serves to recognise that the Sydney Catchment Authority is one of a number of agencies responsible for reporting on the ecological health of the catchments. The bill describes the process required in terms of developing, approving, publishing and amending indicators to be used by the public authority or person to report on ecological health.

The Hon. Rick Colless made reference to the catchment's interface with the agricultural sector, mentioning routine agricultural management activities, which will not be affected by this bill and will continue. In fact, the relevant Regional Environmental Plan ensures it. The proposed maximum penalties for breaches

reflect the seriousness of the offences. We are talking about the supply of water to Sydney—a serious issue that requires serious penalties to be imposed on those who threaten it. The Land and Environment Court would impose the maximum penalties. In addition, powers to enter that are being conferred, as per the Environmental Protection and Assessment Act, are only invoked when a development application has been lodged—a limited use of the power.

Mr Ian Cohen referred to the review process. The five-year statutory review process was extensive and included broad stakeholder consultation. The bill provides for better administrative clarity and stronger statutory powers so that the Sydney Catchment Authority can continue to evolve and better meet its functions. 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. RICK COLLESS [5.22 p.m.], by leave: I move Opposition amendments Nos. 1 and 2 in globo:

No. 1 Page 6, schedule 1 [18], proposed section 42, lines 6–16. Omit all words on those lines. Insert instead:

42 Catchment health indicators

(1) The regulations are to prescribe health indicators of the catchment health of the catchment area.

(2) The first indicators must be prescribed before 1 January 2009.

No. 2 Page 6, schedule 1 [18], proposed section 42A, line 25. Omit "approved under". Insert instead "prescribed for the purposes of".

The Coalition believes that if we are to have catchment health indicators, they should be prescribed by regulation rather than as outlined in this bill. The first amendment seeks to remove section 42 and replace it with a new section establishing catchment health indicators by regulation rather than by appointing a public authority or person to develop and approve them. This bill takes a laissez faire approach to a very important issue. We would also like some sort of formal monitoring program to indicate which way the catchment is heading. That could also be incorporated in the regulations. As the bill stands, there will be no scrutiny of these indicators. An appointed person will approve them without any recourse to Parliament for disallowance or parliamentary debate. The second amendment is consequential.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.25 p.m.]: The Government does not support the Opposition's amendment to define all catchment health indicators in regulations, for a number of reasons. The bill transfers the role of compiling indicators on the ecological health of the catchment from the Sydney Catchment Authority to a public authority or other person appointed by the Minister. This shift sees the catchment health indicators being independently compiled and serves to recognise that the Sydney Catchment Authority is one of a number of agencies responsible for reporting on the ecological health of the catchment. The Opposition's amendment removes this very important safeguard, which provides for a transparent and independent process and takes us back to the catchment authority bringing forward the indicators. That is surely a poor outcome for the community.

The bill describes the process required to develop, approve, publish and amend indicators to be used by the public authority or person to report on ecological health. Practically speaking, to define the catchment health indicators in regulations would render the process inflexible and would restrict the reporting process to one set of indicators at one point in time. Furthermore, the bill does not limit the regulatory control provided by the operating licence. Members should note that section 26 (1) provides that the operating licence is subject to terms and conditions set by the Governor. Finally, the bill requires the Sydney Catchment Authority to evaluate the findings of the catchment audit and to incorporate those findings in its risk-management framework, programs and other activities.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.26 p.m.]: I support my colleague the Hon. Rick Colless. One of the problems for those of us who run grazing properties in the Sydney catchment area is that sometimes there are overzealous bureaucrats who do not take the facts of life and sensible outcomes into consideration. I do not need to remind members that the Sydney Catchment Authority's area of responsibility extends to Goulburn and Crookwell, where I live. I attended a meeting in Goulburn along with 700 or 800 farmers who were told they could not plough their land or grow potatoes. The prescription was awful.

I know that this part of the bill does not deal with that prescription. However, when something is changed at one end, one must consider the ramifications at the other end. They can be horrendous. That is why this is an appropriate amendment. The member for Goulburn, who has an interest in this not only as the shadow Minister but also as the local member representing a community that will be affected, proposed it. The shadow Minister and I want reassurances about the ramifications for our communities.

Mr IAN COHEN [5.28 p.m.]: I listened with interest to the arguments presented by the Government and the Opposition. Although I am not fully across the issues being debated, I have some concerns. Having heard both arguments, I have decided that I will not support the amendments—well intentioned and reasonable as they may be. On this occasion I must agree with regulation to ensure that the environment is protected. However, I acknowledge the position put by members of the Opposition with regard to community concerns and I hope that the Government can ameliorate some of them.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 12

Mr Ajaka	Mr Gay	*Tellers,*
Mr Clarke	Mr Khan	
Ms Cusack	Mr Lynn	
Ms Ficarra	Mrs Pavey	Mr Colless
Miss Gardiner	Mr Pearce	Mr Harwin

Noes, 23

Mr Brown	Mr Macdonald	Ms Sharpe
Mr Cohen	Reverend Dr Moyes	Mr Smith
Mr Costa	Reverend Nile	Mr Tsang
Ms Griffin	Mr Obeid	Mr West
Ms Hale	Mr Primrose	Ms Westwood
Mr Hatzistergos	Ms Rhiannon	*Tellers,*
Dr Kaye	Ms Robertson	Mr Donnelly
Mr Kelly	Mr Roozendaal	Mr Veitch

Pairs

Mr Gallacher	Mr Catanzariti
Mr Mason-Cox	Mr Della Bosca
Ms Parker	Ms Voltz

Question resolved in the negative.

Amendments negatived.

The Hon. RICK COLLESS [5.36 p.m.]: I move Opposition amendment No. 3:

No. 3 Pages 10 and 11, schedule 1 [24], proposed section 62D, line 31 on page 10 to line 3 on page 11. Omit all words on those lines.

This amendment seeks to remove proposed section 62D, which provides that a catchment correction notice may be given orally. The Coalition is opposed to this concept. If someone is going to cop a fine of $250,000, the least that should happen is that the inspector issues that fine in writing on the spot. It is very likely that issues will

arise out of this. For example, if people are issued with an oral fine the amount of the fine may well be disputed later. If the fine is issued in writing on the spot there can be no discussion later. I ask honourable members to think of the situation with respect to road traffic fines. Has anyone ever received an oral fine from a police officer that is followed up in writing later? I don't think so! It is only logical that if someone is going to have a fine imposed upon them that the fine be issued on the spot in writing and not by word of mouth.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.38 p.m.]: The Government does not support the Opposition amendment regarding written catchment notices instead of oral notices. Catchment correction notices given verbally apply only in highly sensitive special areas and controlled areas. Verbal notices apply when immediate corrective action is essential to protect the water supply. A written notice must follow up the verbal notice within 72 hours; otherwise the verbal notice ceases to have effect. Natural justice and due process must apply. The verbal notice is a notice if followed up within the written notice period of 72 hours, and it is more than just a warning. This is consistent with powers under the Protection of the Environment Operations Act 1997 and therefore is not a new concept.

Such verbal notices do not apply to the outer catchment where the bulk of farming takes place. The amendment bill clearly states that these notices are to be used only in special areas and controlled areas. I refer members to the definition of "targeted activity" in proposed section 62A. The other question within this debate is: What is the alternative? Practically speaking, as legal documents they must hold up in court. Drafting them on the spot is open to poor legal results. There are only a certain number of objects that Sydney Catchment Authority officers can carry on their person. They already carry many instruments and objects in order to do their job, to inspect and document their work in remote locations. Carrying extra paperwork should be avoided where practicable.

An example of where a catchment correction notice would be issued verbally is where a person undertakes illegal clearing on Crown land within the special area. A Sydney Catchment Authority authorised officer must have the power to require the person to cease the activity. This notice power would be required only in rare circumstances, perhaps only once or twice every two years. However, given the serious potential impacts on the catchment, in such circumstances verbal notices will be critical. For these reasons the Government opposes the Opposition's amendment.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.40 p.m.]: I cannot understand the Government's reasoning on this. I ask members of the crossbench and the Government to understand once again that this is the Sydney catchment region. It goes from Nerriga, Braidwood, across through Goulburn, up to Crookwell, across to Taralga—a large area of grazing across this State. An Opposition amendment was just defeated that would have made it prescriptive to have a regulation to change the catchment at one end. We understand the problems of algae and dams in the Sydney catchment area, but members should be aware of problems that farming enterprises and business enterprises in this catchment area will face when they are issued with a verbal notice. Whose word will be believed? Who understood correctly the statement or direction with respect to the verbal notice?

The Parliamentary Secretary said that the Government is trying to prevent officers from having to carry extra paperwork and objects. Why can they not have a standard form, write down the direction, remediation or concern and give that to the person so they have something definitive. I hope that at least the Minister for Primary Industries supports the Opposition's amendment because it is trying to help grazing industry in this high-pressure area of the State. We understand the ramifications of grazing and the Sydney water catchment, but there has to be a degree of surety in this.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.42 p.m.]: I refer the Deputy Leader of the Opposition to the point that this is relevant only to special areas and controlled areas, not to farming areas.

Mr IAN COHEN [5.42 p.m.]: I have listened with interest to the debate. I understand a little better now the issues, the Opposition's concern and why it has moved the amendment. The Government has convinced me that it is in specific areas and there are situations where critical and environmental problems can occur. I only wish the same sort of attention were given to the mining industry with respect to water catchment in sensitive areas. Having said that, I ask why there cannot be some paper accompanying that. I believe the Government should properly answer that, regardless of the situation. Beyond that, I am cognisant of the fact that this is for a period of 72 hours. It is not as though a verbal instruction goes beyond that 72 hours and, in that case, I am inclined to support the Government's position on the matter. Having said that, I ask why there is not some possibility that rangers, officers and such like could not have a standard form that would suffice as an interim injunction notice over the 72 hours. That would resolve some of the problems that have been raised.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.44 p.m.]: The idea of the verbal notice is that it will be used on very rare and significant occasions where there is real danger. It will be followed up with a written notice within 72 hours. It is not expected that this will be the way in which notices are generally given out. It is about an area where the catchment is under serious threat. It is not supposed to be a warning; it is about taking action straightaway, which will then be followed up with a notice in 72 hours. The intention is that it will be used rarely, and only in very critical circumstances. There is no reason why we have to force our Sydney Catchment Authority people to walk around with a piece of paper that they will use only once a year.

The Hon. RICK COLLESS [5.45 p.m.]: I have one further point of clarification. What happens in a situation where the verbal fine is issued, for example, for $50,000 and when the paper fine turns up it is for $100,000? Whose word do they take as to what the fine was? Is it the word of the Sydney Catchment Authority inspector or the word of the person who has been issued with the fine? This will happen.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.46 p.m.]: It is not a fine; it is a notice. There are no on-the-spot fines. They will not be providing fines. When they get the notice, that will provide them with the information. There is no disagreement.

The Hon. RICK COLLESS [5.46 p.m.]: And the person who is being fined then says, "That wasn't what they told me they were going to issue the notice for. It was a lesser amount." Who is right and who is wrong?

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.47 p.m.]: There is no on-the-spot fine.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 12

Mr Ajaka	Mr Gay	*Tellers,*
Mr Clarke	Mr Khan	Mr Colless
Ms Cusack	Mr Lynn	Mr Harwin
Ms Ficarra	Mrs Pavey	
Miss Gardiner	Mr Pearce	

Noes, 23

Mr Brown	Mr Macdonald	Ms Sharpe
Mr Cohen	Reverend Dr Moyes	Mr Smith
Mr Costa	Reverend Nile	Mr Tsang
Ms Griffin	Mr Obeid	Mr West
Ms Hale	Mr Primrose	Ms Westwood
Mr Hatzistergos	Ms Rhiannon	*Tellers,*
Dr Kaye	Ms Robertson	Mr Donnelly
Mr Kelly	Mr Roozendaal	Mr Veitch

Pairs

Mr Gallacher	Mr Catanzariti
Mr Mason-Cox	Mr Della Bosca
Ms Parker	Ms Voltz

Question resolved in the negative.

Amendment negatived.

Mr IAN COHEN [5.50 p.m.]: I move Greens amendment No. 1:

No. 1 Page 29, schedule 1 [43], proposed schedule 7, lines 13–18. Omit all words on those lines.

The Greens do not support the inclusion of Devines Weir special area and O'Hares Creek special area in the areas to be de-proclaimed by the bill. As I said earlier, Devines Weir special area is part of proposed additions to the Upper Nepean State Conservation Area, which was proposed by the Wran Government. The Nepean River, within the Devines Weir special area, is a scenic river gorge and should be subject to the provisions of section 45 (1) of the Sydney Water Catchment Management Act 1998 so that it may be added to the existing State conservation area. O'Hares Creek special area contains the Dharawal Nature Reserve and State Conservation Area. Revocation of the special area was deferred to give protection to the catchment until the reserves were in place. The revocation of O'Hares Creek special area would leave these residual crown lands with no protection. Revocation should be deferred whilst outstanding issues involving the area are being resolved. There is no reason to have this revocation come forward now.

The Greens support the omission of these two areas from the areas to be de-proclaimed, until such time as other forms of protection arrangements have been worked out. Until then, they should remain as part of the special area. The upper Nepean River is very scenic and it deserves better than to be dumped out of a special area and left exposed to unknown development, when it may be reserved as a State conservation area. It deserves a better fate. I suggest that previous Labor governments, including the Wran Labor Government and the Carr Labor Government, would not take this sort of action at this time. I commend my amendment to the Committee.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.53 p.m.]: The Government will not support the amendment moved by the Greens. The special areas to be de-proclaimed by the bill are no longer required for the Sydney Catchment Authority's operational purposes. The Sydney Catchment Authority is in the business of supplying bulk water to its customers. This is distinct from managing land and waterways for environmental health. Special area protection aims at controlling access to protect water quality. Therefore the Sydney Catchment Authority should only preserve the areas directly relevant to the supply of water. I wish to clarify an issue raised by Mr Ian Cohen regarding Devines Weir. The Devines Weir, Penrith, Richmond and Windsor special areas draft plan of management states:

> The Devines Weir Special Area was proclaimed in 1924 when the Devines Weir Supply Scheme was proposed. The Scheme was subsequently abandoned in the 1970s, however the proclamation of the Special Area has never been removed.
>
> The Devines Weir Special Area is located 8 kilometres east of Picton and comprises approximately 9 hectares of the Nepean River and its foreshores. The Special Area consists of private land and Crown land which is managed by Wollondilly Council.

With regard to the issue raised by Mr Ian Cohen, the area proposed to be de-proclaimed is about the width of the river; it is not the entire nine hectares. The declared special area at Devines Weir is believed to have been proclaimed as a special area a long time ago when it was considered for supplying water. Devines Weir has not been considered a viable option for water supply for a significant period. The Government is pursuing initiatives aimed at improving the water quality, habitats and recreational values of the Hawkesbury-Nepean River catchment. The Government's Metropolitan Water Plan has a strong focus on projects that benefit the catchment and ensures that these values are protected. Broadly, these projects focus on stormwater, riparian vegetation, nutrient reductions and environmental flows.

From 1998 to 2005 the stormwater trust awarded 48 project grants totalling more than $8.7 million for projects to reduce stormwater pollution in the Hawkesbury-Nepean River catchment. From 1991 to 2005 the environmental trust also awarded 39 project grants totalling more than $1.66 million for riparian vegetation projects to improve water quality in the Hawkesbury-Nepean catchment. Notwithstanding this, the stretch of river and riverbanks to be de-proclaimed will continue to be managed to protect the river's environmental significance. To this end, the Department of Water and Energy regulates the river through its water management powers. From 2010 the Sydney Catchment Authority will release environmental flows that will improve the health of the river. Catchment management authorities do practical work to maintain and rehabilitate riverbanks and land near rivers, and the Department of Environment and Climate Change reports periodically on the health of the river through its catchment audits and through regulating licensed activities.

The O'Hares Creek special area is the site of long-abandoned plans for new dams. O'Hares Creek is already reserved in the national park system, and will therefore remain appropriately protected for its biodiversity values. The Greens would argue that O'Hares Creek special area should not be de-proclaimed for conservation purposes. The Government believes this does not make sense: O'Hares Creek special area is in the national park estate, and that is the best protection for the biodiversity of the area that there can be.

The Hon. RICK COLLESS [5.56 p.m.]: The Coalition will not support the Greens amendment.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 4

Ms Hale
Dr Kaye
Tellers,
Mr Cohen
Ms Rhiannon

Noes, 24

Mr Ajaka	Mr Khan	Mr Tsang
Mr Brown	Mr Lynn	Mr Veitch
Mr Clarke	Reverend Dr Moyes	Mr West
Mr Donnelly	Reverend Nile	Ms Westwood
Ms Ficarra	Ms Pavey	
Miss Gardiner	Mr Primrose	
Mr Gay	Ms Robertson	*Tellers,*
Ms Griffin	Ms Sharpe	Mr Colless
Mr Kelly	Mr Smith	Mr Harwin

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. Penny Sharpe agreed to:

That the report be adopted.

Report adopted.

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.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO.2) 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) [6.05 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

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

Leave granted.

The Statute Law (Miscellaneous Provisions) Bill (No. 2) 2007 continues the well-established statute law revision program that is recognised by members as a cost-effective and efficient method for dealing with minor amendments. The form of the bill is similar to that of previous bills in the statute law revision program. This session the bill reflects efforts made to repeal a large number of Acts that are no longer necessary. The bill repeals, in total, 158 Acts. Schedule 1 contains policy changes of a minor and non-controversial nature that the Minister considers does not warrant the introduction of a separate amending bill. That schedule contains amendments to 24 Acts and instruments. I will mention some of the more notable amendments to give members an indication of the kind of amendments that are included in the schedule.

Schedule 1 amends the Hunter Water Act 1991 to insert a standard provision that allows penalty notices to be issued in respect of offences under that Act that are prescribed penalty notice offences so that Hunter Water has the same power to issue penalty notices as Sydney Water. A consequential amendment is also made to the Fines Act 1996 to provide for the enforcement of any such penalty notice. Schedule 1 amends the Police Integrity Commission Act 1996 to extend the time within which proceedings may be brought against a person for not complying with a notice to provide evidence to the Police Integrity Commission. This period is extended from six months to three years, in line with the time limits applying to a similar offence under the Act. For both these offences, an early prosecution may jeopardise the commission's ongoing investigations.

Another amendment made by schedule 1 is to the Local Government Act 1993 to enable reports on investigations of local councils authorised by the director general under that Act to be laid before Parliament when neither House is sitting. Similar provision is currently made in relation to reports on public inquiries into local councils under that Act. The amendments made by schedule 1 to the Stock Diseases Act 1923 abolish the Board of Tick Control, which was established in 1920 to eradicate cattle ticks in New South Wales. An advisory committee will replace it. This was recommended in the Tick Fever Inquiry Report of June 2005 and has been the subject of public consultation. The schedule also makes a number of consequential amendments to that Act and other legislation.

Schedule 1 also amends the Growth Centres (Development Corporations) Act 1974 to enable members of a development corporation to participate in meetings of the corporation by telephone or other means of electronic communication. This is consistent with existing provisions in Commonwealth and State legislation. Schedule 1 will remove an unnecessary requirement contained in the Residential Parks Act 1998. The provision required the Consumer, Trader and Tenancy Tribunal to give written notice of a decision in relation to a dispute about park rules within 30 days. However, the tribunal's procedure is already set out in the Consumer, Trader and Tenancy Tribunal Act 2001.

The last schedule 1 matter that I will mention is the amendments made to the Succession Act 2006. The Act makes a number of important changes to the law of wills in New South Wales and represents a closer step to achieving consistency of succession laws across Australia. The commencement of the Act has been delayed to provide a reasonable period to educate the legal profession and the community about the reforms and to make arrangements for their implementation. In the course of the process a small number of technical amendments have arisen. These amendments were developed in consultation with the implementation committee of expert legal practitioners and are now included in schedule 1.

Schedule 2 deals with matters of pure statute law revision that the Parliamentary Counsel considers are appropriate for inclusion in the bill, for example, amendments arising out of the enactment or repeal of other legislation, those correcting duplicated numbering and those updating terminology. Schedule 3 contains statute law revision amendments that are consequential on a new edition of *Planning for Bush Fire Protection* by the New South Wales Rural Fire Service, which will update references to this publication and to certain terms used in it in various environmental planning instruments. Schedule 4 transfers a number of provisions from amending Acts into the relevant principal Acts. As the remaining provisions of the amending Acts are spent, this will allow those Acts to be repealed by schedule 5.

Schedule 5 repeals 158 Acts that are spent or are of no practical utility, for example, the Newcastle Tattersall's Club Act of 1945 and the National Oil Proprietary Limited Agreement Ratification Act 1937 because these entities no longer exist. The Acts and instruments that were amended by the Acts being repealed are up-to-date and available electronically on the legislation database maintained by Parliamentary Counsel's office. Schedule 6 contains general savings, transitional and other provisions. In view of the large number of repealed Acts in schedule 5, the schedule contains, for more abundant caution, a power for the Governor, by proclamation, to revoke the repeal of any Act repealed by the bill.

The various amendments are explained in detail in explanatory notes set out beneath the amendments to each of the Acts and statutory instruments concerned or at the beginning of the schedule concerned. If any amendment causes concern or requires clarification, it should be brought to my attention. If necessary, I will arrange for Government officers to provide additional information on the matters raised. If any particular matter of concern cannot be resolved and is likely to delay the passage of the bill, the Government is prepared to consider withdrawing the matter from the bill. I commend the bill to the House.

The Hon. JOHN AJAKA [6.06 p.m.]: The Statute Law (Miscellaneous Provisions) Bill (No.2) 2007 seeks to repeal certain Acts and instruments and provisions of Acts and amend other Acts and instruments in various respects. The purpose of this bill is to effect statute law revision and minor and non-controversial amendments to various Acts of the New South Wales Parliament. These amendments are technical in nature, update references and certain terms in legislation, and repeal Acts that are no longer relevant because the entities no longer exist or are no longer of practical utility. The Opposition does not oppose the bill.

The bill is congruent with the statute law revision program, established in 1984 to facilitate cost-effective and efficient mechanisms for making amendments. Schedule 1 to the bill makes amendments to a

number of Acts and regulations, including the Hunter Water Act 1991. The amendment inserts a standard provision that allows penalty notices in line with Sydney Water's powers. The schedule also amends the Police Integrity Commission Act 1996 by extending the time for proceedings to be brought against a person for not complying with a notice to provide evidence to the Police Integrity Commission to three years in lieu of the current six months.

Other amendments include changes to the Local Government Act 1993 so that reports on investigations of local councils can be laid before Parliament when neither House is sitting. The Board of Tick Control will be abolished under the Stock Diseases Act 1923 and will be replaced by an advisory committee. Amendments to the Growth Centres (Development Corporations) Act 1974 will be made in order to enable members of a development corporation to participate in meetings of the corporation by telephone or other means of electronic communication. Given the highly technological society we live in, it is appropriate that such an amendment be made. Small, technical amendments to the Succession Act 2006 will achieve greater consistency in succession law in Australia.

Schedule 2 amends various Acts and instruments in order to continue statute law revision. It omits redundant words, corrects references, inserts missing words, and corrects duplicate clause numbering and typographical errors. Schedule 3 also updates references and terms in respect of the New South Wales Rural Fire Services' *Planning For Bush Fire Protection*. The accuracy of Acts and instruments is essential to our legal system and this bill addresses the continuing need to update them. Schedule 4 aids this process by transferring certain provisions from amending Acts into the principal Acts to be repealed by Schedule 5. These schedules to the bill assist in aiding the efficacy of laws by keeping them modern and, more importantly, relevant.

Schedule 5 repeals a total of 158 Acts which are redundant because they are no longer relevant or their entities no longer exist and are not of any practical utility. Schedule 6 includes savings, transitional and other provisions of a more general effect than those set out in schedule 1. The schedule also includes a clause that enables the Governor, by proclamation, to revoke the repeal of any Act or instrument or the provision of an Act or instrument repealed by this bill. The Act or instrument or provision that is the subject of the revocation of repeal is taken not to be, and never to have been, repealed. The Statute Law (Miscellaneous Provisions) Bill (No. 2) 2007 continues the statue law revision program and aids the process of making amendments to laws in an effective and efficient manner. So long as the Government is not sneakily inserting a provision, the Opposition considers this is the right way to proceed. For these reasons, the Opposition does not oppose the bill.

Reverend the Hon. FRED NILE [6.10 p.m.]: The Christian Democratic Party supports the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2007. This bill covers minor administrative amendments to a number of bills, although some amendments have practical value. For example, the proposed amendment to the Police Integrity Commission Act 1996 will extend from six months to three years the time within which proceedings may be brought against a person for failing to comply with a notice to produce a document or thing. That is one of many positive amendments contained in the bill, and we do not object to them. The Christian Democratic Party supports the bill.

Mr IAN COHEN [6.11 p.m.]: I indicate that the Greens support the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2007 and note the Government's cooperation in its dealings with the crossbench.

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [6.11 p.m.], in reply: I thank members for their contributions to the debate and 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. Tony Kelly agreed to:

That this bill be now read a third time.

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

TABLING OF PAPERS

The Hon. Tony Kelly tabled the following papers:

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

Department of Community Services
Department of Planning
Department of Primary Industries
New South Wales Electoral Commission

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

Art Gallery of New South Wales Trust
Australian Museum Trust
Australian Technology Park Precinct Management Limited
Chiropractors Registration Board
Cooks Cove Development Corporation
Dental Technicians Registration Board
Election Funding Authority of New South Wales
Growth Centres Commission
Health Care Complaints Commission
Health Foundation
Heritage Council of New South Wales
Historic Houses Trust of New South Wales
Honeysuckle Development Corporation
Library Council of New South Wales
Luna Park Reserve Trust
Maritime Authority of NSW (trading as NSW Maritime)
New South Wales Film and Television Office
New South Wales Medical Board
NSW Food Authority—Volumes 1 and 2
Nurses and Midwives Board
Optical Dispensers Licensing Board
Optometrists Registration Board
Osteopaths Registration Board
Physiotherapists Registration Board
Podiatrists Registration Board
Psychologists Registration Board
Redfern-Waterloo Authority
Sydney Harbour Foreshore Authority
Sydney Olympic Park Authority
Sydney Opera House Trust
Trustees of the Museum of Applied Arts and Sciences
Veterinary Practitioners Board

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

SPECIAL ADJOURNMENT

Motion by the Hon. Tony Kelly agreed to:

That this House at its rising today do adjourn until Tuesday 4 December 2007 at 2.30 p.m.

ADJOURNMENT

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [6.13 p.m.]: I move:

That this House do now adjourn.

RENEWABLE ENERGY

Mr IAN COHEN [6.13 p.m.]: For many years the Greens have proposed that Australia support renewable energy in all its forms. The recent announcements by Kevin Rudd that the Labor Party would support research into renewable energy is very welcome and will give renewed impetus to clean energy research. This support for research will make a positive contribution to greenhouse gas reduction in the long run and will help Australia to reach the 50 per cent reduction by 2050 set by Kevin Rudd. However, we should set the same sort of intermediate targets for renewable energy as progressive nations in the northern hemisphere. The aim of 10 per cent extra electricity from renewables by 2010, rising to 20 per cent by 2015 and 30 per cent by 2020 are

realistic targets, based on existing technologies. As far back as the early 1990s the relevant Commonwealth department estimated we could get 25 per cent of our electricity from renewables at no significant extra cost, and the technology has advanced dramatically since then.

It is claimed that nuclear energy is the only realistic solution to the problem of greenhouse gas emission, but this is based on a deliberate misunderstanding of the greenhouse gas problem and the nature of the power supply needs. Let there be no doubt: renewable energy works. Renewables now account for a quarter of the installed capacity in California, a third of Sweden's energy, half of Norway's and three-quarters of Iceland's. It is time we joined the clean energy revolution sweeping the progressive part of the world. Renewables can meet Australia's energy demand. According to Professor Ian Lowe, just 15 wind farms could supply enough power for half the homes in New South Wales, and they would use less than 0.5 per cent of the pastureland in the State, without disrupting grazing. Renewable energy is often said to be more expensive than nuclear energy, but this is so only if one neglects many of the factors that contribute to the real cost of nuclear energy. These include the environmental damage caused by mining uranium, and the ultimate cost of using and contaminating an enormous amount of water in the mining process. At Roxby Downs this amounts to 266 gigalitres a year, compared to the 100 gigalitres a year from the proposed desalination plant at Kurnell.

Other cost factors include the cost of disposing of the nuclear waste produced during the transport and processing of uranium and the manufacturing of fuel rods, and the decommissioning and dismantling of the nuclear reactors after 30 years of useful life. Sweden, which is closing down its nuclear generation as the reactors reach their design age, estimates that the cost of the waste disposal alone will be $12 billion. One of the stated reasons for using nuclear energy is to reduce greenhouse gas emission. However, it has been shown that it is a very poor means of achieving this end. It has been estimated that it takes six years of operation of a nuclear power station to make up for the greenhouse gas emitted in its construction. Now they boast about planes crashing into them. One can only imagine the resources that go into constructing them. The operation of a nuclear power station has a long lead-time. At best this would be five to six years, but it is more likely to be 15 years when all the planning and licensing processes are included.

Only 35 per cent of all greenhouse gas emitted comes from power stations. The remaining 65 per cent come from other sources, such as transport, food production and agriculture. A recent paper by Professor Barry Brooks of the University of Adelaide showed that beef and wool production, in particular, contribute a large amount of global warming potential due to the emission of methane by the animals. A family of four eating four kilograms of beef a week, or 150g per person per day, will be responsible for as much global warming potential as if they drove a heavy four-wheel drive car 200 kilometres a week. Using energy more efficiently is a much more effective method of reducing greenhouse gas emission than any other process and can be achieved much more quickly.

I turn briefly to the situation in the Parliament and ask members to consider an inventory of our energy use. Professor Ian Lowe has indicated to me that he was prepared to undertake such an inventory. I ask the President that we conduct an inventory of water and energy use within the Parliament. In relation to water, the inventory would look at showerheads and flush toilets. Byron Shire has non-flushing urinals that work very well. As to energy use, there are compact fluorescents throughout Parliament House. But being a country member who does not keep family-friendly hours and leaves late at night, I notice lights are left on in rooms that have not been used for many hours.

The air-conditioning is often left on unnecessarily. A couple of nights ago I walked through the empty pressrooms and saw all the bright arc lights were still on. I turned them off. The Parliament has many opportunities to reduce the excessive power that is utilised—for example, spotlights blazing in the pressroom after 10.00 p.m. I ask the Parliament to consider engaging someone like Professor Ian Lowe, head of the Australian Conservation Foundation, to come to our establishment and undertake an energy and water inventory. It could be a very valuable exercise for the environment to change the habits of members and the press, who are unnecessary users of large amounts of energy in the press gallery and the pressrooms late at night.

ADULT FILM CLASSIFICATION

The Hon. AMANDA FAZIO [6.18 p.m.]: Tonight I wish to set the record straight over the classification of adult films in this country. In a recent speech in this place the Reverend the Hon. Fred Nile stated that the illegal industry in unclassified and refused classification adult films "operates mainly from the Australian Capital Territory". That is demonstrably untrue and a slur on the Australian Capital Territory

Government's X Licensing Scheme, which only allows federally classified adult films to be sold from licensed adult shops and not the illegal kind referred to. In fact, the former Australian Capital Territory registrar for X films, Mr Tony Brown, is on record stating that there is 99 per cent compliance with the scheme. I am reliably informed that the vast majority of unclassified and refused classification adult films are sold in States, including New South Wales, where sale is not regulated by government, but not in the two Territories where sale is regulated by Government.

So, in fact, the Australian Capital Territory is the only jurisdiction in Australia that has regular government inspections to keep out the kind of material that was alluded to. Reference was made also to Mr Brown being in an unhealthy and close relationship with these pornographers. This slur, on a man with an impeccable history of public service over 20 years, is totally unjustified. It was stated also that material for sale in the Australian Capital Territory was produced by the United States mafia and included the abuse of Asian girls. Again, I am reliably informed that the vast majority of this material coming from the US is produced by large, well-known companies that all adhere to the very strict US 2257 legislation and has been inspected and approved by the Federal Bureau of Investigation.

Reverend the Hon. Fred Nile went on to state that he had been contacted by an individual named Royston, who had supplied him with emails that showed that the two people who run the adult industry's national association—the Eros Association—are actively involved in the importation and sale of prohibited goods, which they bring into Australia and seek to put through Australia's classification system. He stated also that these films were refused classification due to violence and under-age actors. This is a very serious allegation and one I believe to be completely untrue. I support the legalisation of the sale of x-rated material or non-violent erotica in New South Wales.

I believe that if the sale of such material were to be made legal, it would stop the ludicrous situation whereby it is legal to buy such material by mail order, have it posted to New South Wales and view it in New South Wales but it is illegal to go into an adult shop in New South Wales and buy such material and it is illegal, of course, for adult shops to sell such material. I have had contact with representatives of the Eros Association over the years since I was elected to this place. At all times I have found them to be responsible and professional advocates for the adult industry in this country, and to be strongly opposed to the importation or sale of unclassified and refused-classified materials and the pirating of legally available material.

I have been approached by Ms Patten, who absolutely denies the allegations and has told me that she and Mr Swan have only ever applied to classify one film in Australia—the hanging of Saddam Hussein—and that was to demonstrate their concern at violent films being too easily available to the community and to minors. They were trying only to highlight the issue. They have never applied to classify an adult entertainment film and have never been involved in the importation and sale of any adult goods, let alone prohibited adult goods as alleged. The allegation that they would in any way try to import child pornography is a calculated attack designed to cause maximum harm to their reputation and hurt to their personal lives. I believe that allegation should be withdrawn.

Ms Patten has been the leading campaigner in Australia for the international online child pornography reporting organisation, the Association of Sites Advocating Child Protection. The assertion that she would be trying to bring child pornography into the country is simply not sustainable. It was stated also that Ms Patten and Mr Swan had an unhealthy relationship with the former Director of the Office of Film and Literature Classification, Des Clark, and that their relationship could have been illegal in some way. It appears that this allegation was based on emails forwarded to him, which outlined discussing an end-of-term gift for Mr Clark. There is nothing sinister in industry groups giving small gifts to departing heads of regulatory bodies. The notion that an erotic miniature could be said to form the basis of an unethical and illegal relationship is an extreme point of view that is not sustained by normal business practices.

I strongly suggest that Reverend the Hon. Fred Nile take a close look at the motives of his informant, Mr Thomas A. Royston. For a start, I find it surprising that he would take the advice and direction of a man who runs a number of adult and x-rated businesses in the Australian Capital Territory. Mr Roysten currently is being sued in the Federal Court by a public company over a million-dollar debt. He is being investigated by the Australian Securities and Investments Commission for serious breaches of the Corporations Act and currently is under investigation by a US company for serious copyright breaches. I have looked at one of his websites, which I will not name here, and have seen that he sells drug-use paraphernalia, including ice-pipes, weighing scales, drug-deal bags and cocaine grinders. I noted also that Mr Royston's post office box in Canberra is PO Box 666.

I am concerned that Reverend the Hon. Fred Nile may have been dealing unwittingly with the devil on this issue—a devil who has many axes to grind with legitimate operators in the adult industry—and as a result has unjustifiably sullied the reputations of a number of individuals, businesses and government departments. I suppose the lesson to all of us is that we should look carefully at people who bring these sorts of complaints to us and ask us to raise them in public. We really must be sure of the veracity of the information these informants give us before we raise them in this House.

CONSUMER, TRADER AND TENANCY TRIBUNAL CODE OF CONDUCT

The Hon. CATHERINE CUSACK [6.23 p.m.]: The code of conduct for members of the Consumer, Trader and Tenancy Tribunal states:

> In their private life Members should exercise discretion in their social contacts and activities.
>
> Members must act impartially, avoiding conflicts of interest both real and apparent, and must carry out their duties as Members without bias and without yielding to external influences.

In addition, it states that members should:

> if engaged in another profession, occupation or business, take care to ensure that those activities do not undermine the discharge of their responsibilities as a Member,
>
> refrain from engaging in partisan political activity which is directly related to the work of the tribunal and which may impinge upon the perception of impartiality of the Member or the tribunal.

It is fine to talk about having an impartial and non-partisan tribunal, but in reviewing the membership of the tribunal it is clear that a disproportionately large number of its members are connected to the Australian Labor Party and the trade union movement. This disturbing pattern of appointments could be explained if we were able to view the qualifications and backgrounds of these members. I have been astonished to find the public is not permitted to know this information. The Government keeps it secret. I recently placed a question on notice and the Minister for Fair Trading replied as follows:

> This information is available in the annual report of the Consumer Trader and Tenancy Tribunal for 2006-2007 which will be tabled shortly. Following which the report will be placed on the tribunal's website www.cttt.nsw.qov.au. The annual report for 2005-2006 is currently on the website.

The Minister's answer is to look in an annual report that is not available or look in the previous annual report, but the information is not in that report either. Instead of an answer, we are led around in circles. I have made inquiries of the Government in good faith in questions and estimates hearings. My inquiries have all been met with trickery and evasion. I now raise the matter in this House as a last resort and out of deep concern that the tribunal's appointments and system of governance has been deeply compromised by the New South Wales branch of the Labor Party and successive Labor Ministers for Fair Trading.

The Government is aware that its failed Labor candidate for the electorate of Wentworth, George Newhouse, was appointed to the tribunal in 2002 and then reappointed for a term expiring in 2010. He claims to have resigned effectively on 22 October. By Mr Newhouse's own admission he was a member of the Consumer, Trader and Tenancy Tribunal whilst a Labor candidate for Waverly Council and Labor mayor of that council. He was a member of the Consumer, Trader and Tenancy Tribunal whilst standing for Labor preselection for Wentworth and throughout the Rudd Labor campaign. How is it possible that a member of the Consumer, Trader and Tenancy Tribunal presiding over home building cases also can be deeply engaged in partisan activities such as fundraising for the Labor Party and sitting in judgment as a councillor and mayor over development applications? How can this conflict of partisan interest meet the standards set out in the code of conduct?

I have political pamphlets promoting the candidacy of Mr Daryl Main, Labor's candidate for Fisher in last Saturday's election. The pamphlets are all authorised and printed by Mr Bryan Pickard of the Sunshine Coast. Is this the same Bryan Pickard who sits as a tribunal member on cases heard on the New South Wales far North Coast? Mr Raymond Plibersek, the brother of a Federal Labor member of Parliament and brother-in-aw of the Director General of School Education, is a part-time member of the Consumer, Trader and Tenancy Tribunal. Mr Plibersek has stood as a Labor candidate for Sutherland Shire Council and served as a member of Barry Collier's State election campaign committee.

Mr Claudio Marzilli is a member appointed in 2002. Is this the same Mr Claudio Marzilli who made a donation of $500 to the Labor Party in the year prior to his appointment? If so, what is the full extent of his

Labor connections? Is Mr Allan Anforth the same Allan Anforth who was an activist member of the Australian Capital Territory branch of the Labor Party and fell out with Kate Carnell's Government? It has been put to me by those who are advocates with regular experience at the tribunal that a number of Consumer, Trader and Tenancy Tribunal members lack expertise and credibility to perform their role. The recent IPSOS Focus Group research confirmed this view is also held by first-time users of the Consumer, Trader and Tenancy Tribunal who are at the mercy of the process due to their inexperience.

Consumer, Trader and Tenancy Tribunal cases may be regarded as minor to the Government, but I assure the House that they are a very big deal to over 122,000 parties in dispute, especially in tenancy and home building matters where dysfunctional systems and erroneous decisions can be totally ruinous to the affected party. I call on the tribunal chair, Kay Ransome, to take a frank and fearless approach to rebuilding the credibility of the Consumer, Trader and Tenancy Tribunal even if this means taking the brave step of standing up to uncaring Labor Ministers who view the tribunal as some kind of lolly shop for their friends and political mates. The tribunal's annual peer review process in 2006 considered only one case and that appears to have been unresolved.

The questions I have raised today—the Newhouse fiasco in Wentworth and the deliberate stonewalling and evasion by Minister Burney—must be considered alongside overwhelmingly negative consumer feedback concerning experiences at the tribunal. Strong measures must be taken to restore public confidence in the tribunal. We may well be at the point where a full inquiry is needed and consideration should be given to disbanding it. [*Time expired*.]

GREENS PREFERENCES

POLLING BOOTH WORKER BEHAVIOUR

Ms LEE RHIANNON [6.28 p.m.]: On the Federal election day, last Saturday 24 November, Greens member Jan McDonald started work at Metford booth in the seat of Paterson at about 7.30 a.m. Around 11.30 a.m. when she was offering Greens how-to-vote cards to voters she heard someone behind her respond to her efforts with the statement, "What a load of crap." Ms McDonald turned around to hear a man standing with a group of Labor booth workers say, "You Greens just tell lies to people." Ms McDonald was surprised by this aggressive attitude and stated, "What are you saying? We are giving our preferences to Labor." This Labor party person stated, "We don't need your preferences" and stated again, "You tell lies. You know there are 300 years of coal left."

Ms McDonald replied, "I used to be a Labor voter and now I remember why I don't anymore." There were at least 10 Labor booth workers at the Metford booth. Ms McDonald thought that the person speaking to her in a loud aggressive voice looked familiar. She asked one of the Labor booth workers, who confirmed that the person was the New South Wales Treasurer, Michael Costa. Ms McDonald was disturbed by the Treasurer's behaviour towards her. She was informed that one of the Liberal booth workers went into the polling booth and told the Metford returning officer about this incident. The returning officer came out and inquired whether Ms McDonald was all right. Ms McDonald appreciated this support.

I urge senior Labor people to counsel Mr Costa on how he should behave when working for Labor at polling booths, and I also urge the Treasurer to apologise to Ms McDonald for his behaviour. There are wider political implications in the Treasurer's comments. He stated, "We don't need your preferences." In the recent State election the Greens preferenced Labor candidates in many seats, including the 24 marginal seats. In the recent Federal election Greens preferences were critical to the election of Labor members of Parliament in at least 21 seats across the country.

In Bennelong, Labor candidate Maxine McKew gained 45.64 per cent of the vote and the Greens candidate, Lindsay Peters, gained 5.47 per cent of the vote. There were a number of other candidates, but their combined vote was tiny and did not provide enough preferences to take Labor's Bennelong vote to over 50 per cent. Ms McKew won Bennelong on Greens preferences. Does Mr Costa think that Greens preferences were not needed in Bennelong? Or maybe Mr Costa thinks that Belinda Neal, Labor candidate in Robertson, should not have received Greens preferences. Ms Neal's vote was 43.51 per cent. The Greens Mira Wroblewski picked up 7.13 per cent of the vote. Again, those Greens preferences were critical to Ms Neal winning her seat in the Federal Parliament.

The statement of a senior Labor figure that his party does not need Greens preferences is proving to be of great interest to Greens members across the State. As other senior Labor figures would know, preference

arrangements are closely watched and debated within our respective organisations. I am sure Mr Costa's comments will travel widely. Apart from Mr Costa's action, most of the reports I have received about election day activities suggest relations between workers for different candidates at polling booths were reasonably cordial.

This is in contrast to the actions of a senior Liberal party member in recent elections. At the Sydney Town Hall booth in the 2007 State election, Liberal Senator Bill Heffernan stole Greens how-to-vote cards. In an example of the senator's bizarre behaviour, he gave out the Greens how to-vote cards while making derogatory remarks about the Greens and misrepresenting the Greens' policy on drugs and harm minimisation to the public. The police ordered Senator Heffernan to return the how-to-vote cards to the Greens candidate for the State seat of Sydney, Chris Harris. Senator Heffernan did the same thing at the Sydney Town Hall booth in an earlier election. These antics are offensive and undemocratic. As political party representatives, we have our differences, and often they are sharp, but I urge all members to do everything possible to ensure that on election day our booth workers are cooperative and polite to each other as well as to the public.

FEDERAL LEADER OF THE OPPOSITION ELECTION

The Hon. IAN WEST [6.32 p.m.]: I note the appointment of Dr Nelson, former union boss and head of the Australian Medical Association, as Leader of the Federal Opposition. Dr Nelson has taken up some very reasonable positions in the past about issues such as gay rights, Aboriginal land rights and education, opposition to mandatory sentencing laws, safe injecting rooms and a number of other issues. Dr Nelson is a man of principle. But if one does not like the principles I have referred to, he has others. In August 1994, Dr Nelson said, "I would feel equally comfortable as a moderate Liberal as I would in the Labor Right." A former ally was quoted in the *Sydney Morning Herald* in December 2005 as saying:

> He's done a Faustian deal with the driest dries in the Liberal Party—you do all this stuff…and we'll give you power.

I note Tony Abbott conspicuously pulled out of the race for Federal Opposition leadership, taking shots at Malcolm Turnbull on ABC's *Lateline* program. Arch-conservative former Treasury secretary John Stone described Dr Nelson as "a political hermaphrodite". Greg Barns, former staffer to John Fahey while the former Premier was Federal finance Minister, said, "The Nelson of today is totally manufactured." President of the New South Wales Secondary Principals Council, Chris Bonner, said that as Minister for Education Dr Nelson criticised practices for which there was no evidence and came up with policy solutions already being carried out. Sydney University's Vice-Chancellor, Professor Gavin Brown, described Dr Nelson as "an example of ambition overriding principle". Sydney Lawyer and former Liberal Party member Ifran Yussuf, who was intimate with Dr Nelson's preselection in 1995, said:

> Nelson had the kind of flexibility that enabled him to both support and oppose identical policy proposals and still sound completely credible. Issues didn't matter. What mattered was who was listening and how many votes they could swing.

Mr Yussuf also revealed he had conversations with Dr Nelson in which the doctor presumably read something into Mr Yussuf's name and slammed Israel for its ongoing occupation of the West Bank. Incidentally, Mr Yussuf also recalled that the Hon. David Clarke issued a "fatwa" against Dr Nelson during the doctor's run for preselection.

The Hon. David Clarke: He's a liar.

The Hon. IAN WEST: He's a liar? Okay. But some Liberals were impressed. In the *Sydney Morning Herald* in December 2005, current New South Wales Opposition Leader, Barry O'Farrell, recalled that when he was State Liberal Party director and Dr Nelson was looking to go into politics the doctor was really only interested in a safe seat. Mr O'Farrell predicted Dr Nelson was "capable of going the whole way in politics". Mr O'Farrell was a good judge of a horse. What qualities make someone capable of going the whole way in politics Mr O'Farrell did not say, but the ability to change one's fundamentally held beliefs in the pursuit of power might be one of them.

However, Mr O'Farrell is wrong in his belief that Dr Nelson will go any further in the Liberal Party. He is wrong because Dr Nelson has sold out every inch of himself to fringe interest groups in the pursuit of power. Who knows what deals he has done with the Liberal Party's religious Right to win today's ballot? The secretive cult the Exclusive Brethren was caught out in February giving thanks for Dr Nelson's support. A report in the *Age* newspaper revealed a conversation between Brethren figures, including cult chief Bruce Hales, about a meeting with Dr Nelson that resulted in "unexpected recognition" and favourable treatment. In this case it was an exemption from testing of computer literacy for students in Brethren schools. [*Time expired*.]

RUSSIAN ORTHODOX CHURCH

The Hon. DAVID CLARKE [6.37 p.m.]: Recently I was deeply honoured to be invited to speak at an important occasion for the Russian Orthodox Church, the Feast of the Archangel Michael, held at its Blacktown church and presided over by His Grace Archbishop Hilarion, who leads the church here in Australia. Attended by many priests, monks and members of various congregations, it was testimony to the fact that the Russian Orthodox Church is alive and well and growing here in Australia.

What was particularly noticeable to me was the growing number of younger people actively involved in the church, including many who are not of Russian ethnic origin. Archbishop Hilarion presides over a church here in Australia that is growing in the number of parishes it is establishing, in the number of monasteries and convents it is opening and in the expanding list of charitable works in which it is so energetically engaged. In 2003 Archbishop Hilarion, who is also chairman of the Federation of Russian Welfare Organisations in Australia, was awarded the Australian Federation Centenary Medal for his services to the Australian community.

Australia can be well proud of Archbishop Hilarion for his work on behalf of the Russian-Australian community and the wider Australian community as a whole. Australia can be well proud of the energetic and positive contribution to Australia by the Russian Orthodox Church, and it can uphold the Russian-Australian community as an outstanding example of a community that has never had any difficulty in harmonising with the Australian community as a whole and in identifying with Australian values.

This has been a landmark year, a momentous year and a joyful year for the Russian Orthodox Church because it marks the year when the Russian Orthodox Church, which has its headquarters in Moscow, was reconciled and rejoined with the Russian Orthodox Church in exile—the church that continued unhindered outside the borders of the former Soviet Union for all these decades. It was a division that was a direct consequence of the rise to power of the Communist Party and its creation of a ruthless, murderous and atheistically based dictatorship that established itself as the Soviet Union.

History records, and we should never forget, that the Russian people were the very first to suffer under the steel fist of communism. The Russian people were not only the first to suffer; they were also those who suffered the longest—from 1917 all the way through to only a few years ago. They lived through the mass murders and misery unleashed by Lenin and Stalin and the tyrants who followed them. They suffered famines, deprivations and loss of freedom for a period longer than any other people. As the spiritual heartland of the Russian people, the Russian Orthodox Church suffered as well. It was a special target of a system, an ideology and regime whose underlying driving faith was atheism, a hatred of all religion and an obsession with destroying everything associated with religion, especially everything associated with the Russian Orthodox Church.

While the Constitution of the Soviet Union guaranteed religious freedom, there was no freedom. The written guarantee was merely words to be ignored and a promise to be trampled upon. The historian H. Alfeyev detailed some of the hatred directed against the Russian Orthodox Church when he stated in a presentation to the Vienna Political Academy on 3 November 2003:

> The policy of dismantlement, begun in Lenin's period of rule, increased in force and terror under Stalin reaching a scale of persecution unprecedented in Christian history. By 1939 all monasteries and theological schools were closed, and tens of thousands of churches were either blown up or shut down.
>
> Of more than 60,000 pre-revolutionary churches, only about a hundred remained open. Of more than 150 bishops serving before the revolution, only four remained free.
>
> The overwhelming majority of the clergy and monastics (some 200,000) were either shot dead or tortured in concentration camps.

One of the major reasons why the Russian people repulsed Hitler's invasion was the belated realisation by Stalin that it was not a love of communism that would rally the Russian people, but Russian patriotism and a temporary partial restoration of the Russian Orthodox Church to provide spiritual inspiration to the Russian people. When World War II ended, so did Stalin's relaxation of religious persecution. While Khrushchev was exposing the crimes of Stalin, he was simultaneously launching further waves of persecution against the church. What a fraud from top to bottom was the communist system.

It is one of the miracles of our time that the Russian Orthodox Church survived 70 years of communist persecution. It stands as one of the greatest of all the chapters in the history of the church—a testament to the

Church Triumphant and to the Church Victorious. What a great spiritual heritage the Russian people and the Russian-Australian Community have. What a marvellous work and wonder it is that the Russian Orthodox Church survives, expands and multiplies throughout Australia and throughout the world.

HOME OWNERS WARRANTY INSURANCE

Ms SYLVIA HALE [6.42 p.m.]: Yesterday I received via email a copy of a letter sent to Alan Marsh and Lyn Baker of the Department of Commerce dealing with the predicament in which a consumer finds himself in relation to a faulty home constructed by Cavalier Homes. The email states:

> I have received the legal advice re the Home Owners Warranty insurance claim from Kel Nash—

Kel Nash is the secretary of the Home Warranty Insurance Scheme Board—

> Legal Costs - I have incurred costs to $65,000 consisting of approx $58,500 as assessed by the Supreme Court and $6,500 to liquidate the builder so that I could submit an insurance claim. Vero have offered approximately $7000. The legal advice provided appears to support the insurer's position.
>
> Rent - I have incurred costs of approximately $55,000 being the rent for alternate accommodation as I cannot get an occupancy certificate for the house. Vero offered nil, a position supported by the legal advice provided.
>
> Costs of rectification - Costs to rectify have been assessed at over $180,000. The insurer offered approximately $42,000. The position of Vero is supported by the legal advice provided.
>
> The position of Vero, as supported by legal advice, means that even though I have won the CTTT hearing—

[*Time for debate expired.*]

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

Motion agreed to.

The House adjourned at 6.43 p.m. until 2.30 p.m. on Tuesday 4 December 2007.