

LEGISLATIVE COUNCIL

Wednesday 5 December 2007

The President (The Hon. Peter Thomas Primrose) took the chair at 2.00 p.m.

The President read the Prayers.

NSW OMBUDSMAN

Report

The President tabled, pursuant to the Law Enforcement (Controlled Operations) Act 1997 and the Ombudsman Act 1974, the report entitled "Law Enforcement (Controlled Operations) Act Annual Report 2006-2007", dated December 2007.

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

AUDIT OFFICE

Report

The President tabled, pursuant to the Public Finance and Audit Act 1983, a performance audit report of the Auditor-General entitled "Police Rostering—NSW Police Force", dated December 2007.

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

BUSINESS OF THE HOUSE

Order of Business

Motion by the Hon. Tony Kelly agreed to:

That on Wednesday 5 December 2007:

- (a) Questions commence at 4.00 pm, and
- (b) The sessional orders relating to debate on committee reports and budget estimates be suspended.

UNPROCLAIMED LEGISLATION

The Hon. Tony Kelly tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 4 December 2007.

GENERAL PURPOSE STANDING COMMITTEE NO. 3

Report: Budget Estimates 2007-08

The Hon. Amanda Fazio, as Chair, tabled report No. 19, entitled " Budget Estimates 2007-2008", dated December 2007, together with transcripts of evidence, tabled documents, correspondence and answers to questions taken a notice.

Report ordered to be printed on motion by the Hon. Amanda Fazio.

The Hon. AMANDA FAZIO [2.03 p.m.]: I move:

That the House take note of the report.

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

GENERAL PURPOSE STANDING COMMITTEE NO. 1

Report: Budget Estimates 2007-08

Reverend the Hon. Fred Nile, as Chair, tabled report No. 31, entitled " Budget Estimates 2007-2008", dated December 2007, together with transcripts of evidence, tabled documents, correspondence and answers to questions taken a notice.

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

Reverend the Hon. FRED NILE [2.04 p.m.]: I move:

That the House take note of the report.

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

BUSINESS OF THE HOUSE

Withdrawal of Business

Private Members' Business item No. 3 outside the Order of Precedence withdrawn by the Hon. Robyn Parker.

BUSINESS OF THE HOUSE

Postponement of Business

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

CHILD PROTECTION (OFFENDERS REGISTRATION) 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) [2.06 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

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

Leave granted.

The Child Protection (Offenders Registration) Amendment bill 2007 amends the Child Protection (Offenders Registration) Act 2000 to make further provision with respect to registration and reporting requirements for certain persons on the New South Wales Child Protection Register (the Register).

New South Wales was the first Australian State to introduce a mandatory system of registration for people who have committed child sex offences and/or other serious offences against children.

Since October 2001, registrable persons have been required to report their personal details to the New South Wales Police Force for a set number of years while they are living in the community.

I strongly support this system, which is legislatively underpinned by the Child Protection (Offenders Registration) Act 2000 (the Act). While one of the aims of the Register is to provide a deterrent to re-offending, it is important to recognise that the existence of the Register will not stop every person who has been convicted of a registrable offence from ever abusing another child.

However, the Register does provide police with a valuable tool to assist in their management and monitoring of registrable persons living in the community.

Registrable persons are required to tell police where they live, where they work, what car they drive any children they live with and more. They are also required to inform police in advance of their intended interstate or international travel arrangements.

As well as being held on the New South Wales Child Protection Register, information regarding registrable persons is uploaded to the Australian National Child Offenders Register (ANCOR).

This database, which is managed by CrimTrac, is used to assist police from other jurisdictions in monitoring child sex offenders.

The Child Protection (Offenders Registration) Amendment bill 2007 introduces improvements to New South Wales's child protection registration system including allowing police to take and retain DNA samples of registrable persons and increasing the maximum penalty for breaching reporting obligations from 2 years to 5 years.

The changes aim to provide police with the information they need when investigating and prosecuting child sex offences that may have been committed by recidivist offenders as well as in the police management and monitoring of child sex offenders in the community.

The recommended changes follow a period of extensive consultation and a review of the Act. In November 2005, the New South Wales Ombudsman's Review of the Register was tabled in Parliament. His review found that the implementation of the Act had been largely successful and that the Register has the capability to be a significant child protection tool.

The Ombudsman's review informed the statutory review of the Act.

I will now outline the provisions of the bill.

Registrable persons

Registrable offences are listed in two separate categories under the Act. Class 1 includes the most serious offences such as child murder and sexual intercourse with a child.

Class 2 includes other offences such as acts of indecency against a child and possession of child pornography.

The bill makes only one change to the definition of registrable offences, which is to recognise the offence of sexual assault by forced self-manipulation, where the person against whom the offence is committed is a child, as a Class 1 offence.

The bill also tightens the circumstances in which adults are required to comply with the reporting obligations of the Act by extending registration requirements to all adults convicted of a Class 2 registrable offence—it will no longer matter whether the sentence includes a term of imprisonment or requires the person to be supervised.

While the penalty imposed by the courts on such offenders indicates their conduct is at the lower end of seriousness in relation to registrable offences, the nature of the offences—such as possession of child pornography—are still serious offences that potentially endanger children and warrant monitoring by police through the registration process irrespective of the sentence received.

Young persons will continue to be exempt from registration if they commit certain Class 2 offences on a single occasion such as an act of indecency or possessing or publishing child pornography.

The bill also ensures that all persons arriving into New South Wales, who would be required to register with police in their country of origin, will be required to report their details to the New South Wales Police Force.

Child Protection Registration Orders

Police can currently apply to the court for a child protection registration order when a person is found guilty of an offence which is not a registrable offence.

The bill expands the circumstances in which courts can issue child protection registration orders to require someone to comply with the reporting obligations of the Act.

Firstly, the bill allows courts to issue orders for persons convicted overseas of an offences for conduct that would have constituted a registrable offence if committed in New South Wales.

For example, a person may be convicted in another country of possession of pornography in a jurisdiction that does not have the specific offence of possession of child pornography on its books, as is the case in a number of our neighbouring South East Asian countries.

Secondly, the bill allows courts to order persons to comply with the reporting obligations of the Act who completed their sentence for what is now defined as a Class 1 registrable offence before the Act commenced in October 2001.

These orders will not be able to be applied for a person who completed their sentence prior to October 2001 who was a child at the time they committed the offence.

Finally, the bill allows courts to order people charged with a registrable offence/s and released on bail under the Mental Health (Criminal Procedure) Act 1990 to report to police under the Act.

Such persons can be on bail for long periods of time while their fitness to be tried is assessed and a decision is made as to whether a special hearing under the Mental Health (Criminal Procedure) Act 1990 should be held.

Consequently, there is potential for significantly longer delays between a person being released on bail and the court issuing a 'sentence' for forensic patients than for others released on bail.

In all cases, courts will only be able to issue child protection registration orders when satisfied that the person poses a risk to the lives or sexual safety of one or more children, or of children generally.

Reporting email addresses

The bill introduces a requirement that registrable persons are to report to police all their active electronic communication identifiers, details of service providers, service type and any changes to these details.

This includes all their active email addresses, chat room identities as well as all landline and mobile telephone numbers.

This information may assist investigations of the New South Wales Police Force, particularly in relation to child pornography or grooming and/or procuring of children.

While this additional reporting requirement will not stop convicted child sex offenders from using the Internet, it may deter persons on the Register from inappropriately using telecommunications and provide an added layer of protection for children while using the Internet.

Residing with children or unsupervised contact with children

I am advised that it is currently difficult to prove a breach under section 9(2) of the Act as police must provide evidence that a person on the Register has lived with a child for more than 14 days or had more than 14 days unsupervised contact with a child over a 12 month period, without telling police as is required under the Act.

The bill proposes that in future this information will need to be provided to police when a person on the Register has lived with a child for only 3 days or more or had unsupervised contact for 3 days or more in a 12 month period.

Furthermore, they will need to let police know of any change in this information within 3 days of the change occurring.

Similar amendments were recently introduced to Victoria's registration scheme and are intended to make it easier for police to gather evidence when they become aware that a person on the Register has breached their reporting obligations in this regard.

Timing of initial report to police

The bill requires registrable persons to make their initial report to police within 7 days. This reduces and simplifies the current timeframes in which registrable persons are required to make this report.

The introduction of this provision will align New South Wales with legislation in Western Australia, the Northern Territory and the Australian Capital Territory.

Presentation of passports

Registrable persons will also now be required to present any current passports they hold to police as part of their reporting requirements. This will assist police in confirming the identity of registrable persons from New South Wales upon their departure from or entry into Australia.

Increased penalties

Police advise that failure to comply with reporting obligations can be an indicator of further offending; it can also be evidence of a disregard for the Register, the seriousness of the offence/s they have committed, and the Register's overall objective of protecting children.

In order for the Act to be effective, it is imperative that registrable persons have a sufficient deterrent to encourage them to comply with their reporting obligations.

Therefore the bill increases the maximum penalties for breaching reporting obligations under the Act from 2 years to 5 years imprisonment.

Apply to police prior to changing name

Persons on the Register are currently required to report to New South Wales police their name, together with any other name by which the person is or has previously been known.

Based on similar reforms recently introduced to Victoria's scheme, the bill requires registrable persons to apply to the Commissioner of Police before changing their name.

Where the Commissioner believes that the name change is reasonably likely to be regarded as offensive by the community, the person's victim or the victim's family; or where it might undermine the New South Wales Police Force's ability to supervise and monitor the person—the Commissioner will be authorised to prevent them from changing their name.

This proposal represents an operational improvement to the current scheme.

DNA samples of registrable persons

Schedule 2 of the bill amends the Crimes (Forensic Procedure) Act 2000 to allow police to take and retain the DNA of registrable persons

This change will provide police with a powerful and crucial investigative tool to identify offenders and/or eliminate suspects when new child sexual offences occur.

By having the DNA of persons on the Register, more persons who commit child sex crimes will be identified, they will be identified faster and they will be more likely to be successfully prosecuted.

I am advised by police that the DNA sample could be taken when registrable persons either make their initial report or their annual report to police as required under the Act.

All persons on the Register should be eligible to have their DNA tested by police, irrespective of sentence.

Exemption from Freedom of Information

It was Parliament's original intention that information held on the Register should not be available to the public. To ensure this is the case, the bill exempts documents relating to the Register from the Freedom of Information Act 1989.

Clarifying in legislation that information held on the Register is not accessible to the public will encourage even higher levels of compliance with reporting obligations and further minimise the risk of vigilante activity.

I commend this bill to the House.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [2.06 p.m.]: I lead for the Opposition in debate on the Child Protection (Offenders Registration) Bill 2007. It was only a couple of hours ago that we were in this Chamber debating other important legislation. We have just commenced what could well be the last—if not the last, then the penultimate—sitting day for 2007 to debate a very important community issue for child protection: offenders registration. The bill had its genesis in the Child Protection (Offenders Registration) Act 2000, the Crimes (Forensic Procedures) Act 2000 and the Freedom of Information Act 1989. The Opposition will not oppose this bill, which deals with a number of key matters. The offence of sexual assault by forced self-manipulation committed against a child will be a registrable class 1 offence for most serious offences.

The bill makes changes to classification as a registrable person, provides for further circumstances in which a child protection registration order may be made, extends reporting obligations of persons so affected by this legislation, suspends reporting obligations when they also are subject to an interim or extended supervision order under the Crimes (Serious Offenders Sex Offenders) Act, increases maximum penalties for failing to comply with reporting obligations and for providing false or misleading information when reporting, authorises the conduct of certain forensic procedures on registrable persons, and requires the approval of the Commissioner of Police before making a name change application. In addition to that, the bill makes it an offence to disclose information about a registrable person in certain circumstances. Next, it exempts certain documents relating to persons from the Freedom of Information Act. Finally, it provides for further review of the Act.

I do not intend to speak at length on this legislation because there are a large number of bills to be dealt with by the House today. However, there is no doubt that this area of law is a matter of increasing concern for the public, and quite rightly so. The bill is the result of the Ombudsman's review of the legislation, his report to Parliament, the review of the Child Protection (Offenders Registration) Act 2000, and quite a number of recommendations that were spelled out in the review and subsequently handed to the Ministry, which also produced its own report. That process has produced much-needed positive reforms.

It is important to record the commitment by the Hon. Catherine Cusack to this legislation. All members would acknowledge that she has pursued the Government to clarify its position on this legislation and to lift its standards of transparency. She stridently called for the Ombudsman's report to be made public, and she can hold her head high because she most certainly has played a significant role in pursuing the Government to update this legislation. I believe all members would agree that her commitment to the issue was not politically motivated but, rather, a manifestation of her commitment to ensure that changes to the system of registration became a reality. All members of the House would congratulate the Hon. Catherine Cusack, just as they would congratulate any member of this House who shows dedication and commitment to child protection issues in New South Wales. It is great to know that all members, including the Hon. Amanda Fazio, support members of Parliament who pursue issues to increase protections for children.

The Hon. Catherine Cusack: I get a lot of feedback from Amanda.

The Hon. MICHAEL GALLACHER: I am sure the Hon. Catherine Cusack receives lot of positive feedback from the Hon. Amanda Fazio. It is that type of encouragement that sustains members on the Opposition side of the Chamber. It is important to recognise significant improvement in information that is available to police about registrable persons. The legislation provides for individuals who have been reported for offences in other jurisdictions throughout Australia and in other nations to have their names placed on the list of registrable persons. That is a very positive move. It will ensure that members of the New South Wales Police Force have access to the best possible information.

I will not delay the House by belabouring the effect of this legislation, other than to express concern about a matter that has been raised in the past by members of the Opposition—and no doubt will be raised by crossbench members—and that is, what type of information should be made available to the public to ensure that citizens are given the best available information in order to protect their community and their children? The legislation prohibits disclosure to the public of the names of people who are on the registrable persons list. That issue will be the subject of substantive debate in the community for some time in the future. Significant debate has taken place in the United States of America over the past couple of years centred round the type and extent of information that may be made available to members of the public.

The bill reconfirms the commitment from the Government to ensure that the public will not be part of the process of receiving information about registrable persons who live in a particular neighbourhood or a community. Disclosure of information will continue to be a substantive and live issue as it relates to child protection. No doubt sometime in the future the Parliament will be drawn into further debate on whether withholding information is in the best interests of the community or in the best interests of the registrable person. I look forward to debate on offenders registration and child protection in New South Wales. Having said that, I reiterate that the Opposition will not oppose the bill.

Ms SYLVIA HALE [2.15 p.m.]: I will not examine all the provisions of the bill because at the second reading stage and the agreement in principle stage Government members in this House and in the lower House canvassed them in detail. The Greens do not have an issue with most of the provisions in the bill. The bill provides that more people, including those convicted of a summary offence and are deemed to be a risk to the safety of children or at risk of committing sexual offences, may be placed on the offenders register. The bill also will allow police to place the names of people on the register when they have been convicted in another jurisdiction, such as overseas, of an offence that would otherwise result in their being included on the register in New South Wales. The suggested provisions will require those on the register to report to police when they have been living with a child for more than three days.

The provisions will increase penalties for breaching reporting obligations from two years to five years. It will allow a court to refuse a person permission to change his or her name by deed poll. It will allow police to collect DNA samples from those on the register and require that those on the register give police information about their Internet service providers and email addresses. The Greens support these provisions. However, it is important to recognise that Internet crimes comprise a small fraction of child sex offences, most of which—in fact, the overwhelming majority—occur inside the home and are perpetrated by a family member or relative. Therein lies the real danger. While Internet stalkers are a growing issue in the minds of many people and certainly cause parents to worry, we must not lose sight of where the major threat really lies. The threat comes from males in the home who are known to the child and who are often related to the child.

The Greens do not support the police being able to collect DNA in all circumstances. However, such a provision is useful in potentially, although not infallibly, identifying a person who has committed a crime. While by no means perfect, DNA matching is a useful tool for police. To date there have been no known false DNA matches in Australia, but there have been at least two noteworthy instances overseas, one involving a laboratory error. But, in general, cold hits have led police to convict people, notably in the United States of America and in the United Kingdom, of unsolved crimes. DNA profiling is used most often in sexual offence cases, but also in murder cases.

DNA profiling can exclude people who are falsely suspected of involvement in a crime. Notably this was done in Wee Waa after the rape of an elderly woman. The offender did not volunteer a blood sample, but many others in the community did, and thereby excluded themselves from suspicion. DNA profiling can also provide strong evidence of involvement. It often leads to the accused pleading guilty when faced with a DNA profile that shows it is almost certain that that person was involved in the crime. Those who are already on the register have been convicted of an offence. Therefore it may be argued that they have ceded their right to privacy.

The Greens highly prioritise the rights of the child. Child protection must be our chief consideration. One question that the Minister should address is: Does the collection of DNA act as a deterrent to someone reoffending, or does it simply ensure that they are more easily caught, once they reoffend? I am not saying that the Greens have the answer to that question. Certainly the effectiveness of DNA matching indicates that the offender does not expect to be caught when reoffending, but DNA assists in conviction and subsequent incarceration, which obviously removes the offender from society, and while the offender is in a correctional centre, he or she does not have the opportunity to reoffend because there is no scope for the offender to do so.

The Greens support the collection of DNA from those on the New South Wales Child Protection Register for two reasons. First, the DNA is collected from those who have been convicted of an indictable sexual offence against a child or an offence of a lower order but in relation to which a court determines that the offender presents a risk to children. Under these circumstances collecting a DNA sample is legitimate as it is carried out after the offence has been committed and the person convicted. Second, the level of reoffending amongst paedophiles is not as high as commonly thought, but offences can be serious when they do occur.

The United Kingdom study "Reconviction Rates of Serious Sex Offenders and Assessments of their Risk" by Hood, Shute et al found that in 67 per cent of cases the victim or victims were confined to the offender's own family unit—that is, the offenders were parents, step-parents, grandparents or other close relatives—and 8.5 per cent were convicted of another sexual offence within six years. If the offender was originally convicted of crimes against children not in the family home, the rate of reoffending was greatly increased. Some 26.3 per cent of those originally imprisoned for a sexual crime against a child victim outside their family were reconvicted of another sexual crime, and 31.6 per cent were imprisoned for a sexual or violent crime.

A United States study by Rice, Quincy and Harris of extra familial child molesters produced a similar result. They found that 31 per cent had a reconviction for a second sexual offence within six years. The reoffending rate for those convicted of a sexual offence against another adult is lower relative to child sexual offenders. Child sexual offenders often repeat their crimes against children. Of 24 offenders in the United Kingdom study mentioned before whose first sexual conviction was for an offence against a child, 71 per cent repeated their sexual offences against children only. The rest changed to offending against an adult victim on at least one occasion. In light of the likelihood of about one-tenth to one-third of offenders reoffending, depending on the offender profile, the Greens believe taking DNA samples is justified.

The Greens also support the provisions that require those on the register to supply information about their Internet and email providers and addresses. This will curtail activity from their home computer. However, I note that the bill does not prevent people from visiting chat rooms and viewing child pornography in commercial premises such as sex shops or Internet cafes or even public libraries. As I mentioned before, the real problem is in the home, and most offenders know their victims well or are related to them.

The recommended changes follow a period of extensive consultation and a review of the Act. In November 2005 the New South Wales Ombudsman's review of the register was tabled in Parliament. This review found that the implementation of the Act had been largely successful and that the register had the capacity to be a significant child protection tool. The Greens recognise that the Government must also support treatment for child sex offenders in correctional centres. According to a study conducted for the Australian Institute of Criminology by Donato and Shanahan, current treatment programs produce a 2 to 14 percentage point reduction in recidivism rates. These programs need to be followed up outside jail, and for a long period. According to Victorian forensic psychiatrist William Glaser:

... sex offenders are notorious long-term recidivists and any benefit from treatment may only be apparent after a lengthy period. Conversely, a really effective treatment program will have to emphasise long-term follow-up ...

In light of the Ombudsman's comments and after weighing up the need to protect children and the potential threat from offenders, the Greens support the bill.

Reverend the Hon. FRED NILE [2.24 p.m.]: The Christian Democratic Party supports the Child Protection (Offenders Registration) Amendment Bill 2007, which amends the Child Protection (Offenders Registration) Act 2000, the Crimes (Forensic Procedures) Act 2000 and the Freedom of Information Act 1989. It contains a number of provisions. It provides that the offence of sexual assault by forced self-manipulation committed against a child is a registrable offence under the principal Act. It also makes further provision with respect to classification as a registrable person or a corresponding registrable person under the principal Act. I refer particularly to the increase in the maximum penalties for failing to comply with reporting obligations and for providing false or misleading information when reporting. It is most important to keep track of sex offenders, particularly those who have been convicted of child abuse. The bill also authorises the conduct of certain forensic procedures on registrable persons.

Schedule 1 [28] requires a registrable person to seek the approval of the Commissioner of Police before making an application to change his or her name under the Births, Deaths and Marriages Registration Act 1995 or a similar Act of another State or Territory. This is an important provision. The proposed amendments are closely modelled on the proposed amendments to the Sex Offenders Registration Act 2004 of Victoria. The Commissioner of Police will be able to approve a change of name only if satisfied that the change of name is necessary or reasonable. The commissioner must not give approval when the change is reasonably likely to be regarded as offensive by a victim of crime or an appreciable section of the community or is reasonably likely to frustrate the administration of justice in respect of the registrable person.

I have mentioned in Parliament on previous occasions child sex offenders who have deliberately changed their names in order to conceal their identity. They have even been employed to work with children because their new employer had no way of knowing of their previous child abuse convictions. So this provision is vital. However, I have difficulty understanding some of the bill's provisions. For example, schedule 1 [31] makes it an offence—carrying a maximum penalty of 100 penalty units or two years imprisonment—for a person to disclose information about a registrable person except in specified circumstances. People have made it clear that they want to know when a convicted child sex offender is living near them, particularly in areas where there are many families with children. Under the law they do not have access to this information. Some States in America have changed their laws to make that information available to people who seek it. But this bill seems to reinforce secrecy and the non-disclosure of that information.

I believe the Government should review this issue in the future and perhaps introduce an amending bill. Finally, like other legislation, the bill enhances the ability of police to conduct further forensic procedures. The bill authorises police to carry out an other-administered buccal swab, which is an intimate forensic procedure. They are also authorised to carry out a self-administered buccal swab and to take a sample of hair other than pubic hair. These are non-intimate forensic procedures. This will help police to identify offenders and keep track of them, as there is a strong possibility they will reoffend. The police need to be able to gather DNA samples and other material to identify repeat offenders and arrest them quickly. The Christian Democratic Party supports the bill.

The Hon. CATHERINE CUSACK [2.30 p.m.]: I will not traverse the ground covered by my colleague, the Leader of the Opposition, who laid out the Opposition's position in relation to the Child Protection (Offenders Registration) Amendment Bill 2007. I will refer specifically to the review of the legislation and briefly recap the review process that has led to the amendments to the Act in this legislation. The original Act was enacted in 2002 and it provided that a two-year review of the Act by the Ombudsman be undertaken. The review process that was commenced two years from the date of assent of the Act, which was in 2001, will have taken eight years, to 2008, to be completed. I will elaborate during the Committee stage why that process has been so cumbersome. I foreshadow that I will move an amendment in the Committee stage in relation to line 15, page 15 of the bill, which refers again to a section 26 review of the Act. It proposes that such a review should commence five years from the date of assent of this legislation.

Based on experience and the Opposition's calculations, a review that does not commence until five years after the date of assent would take between 10 and 13 years, which is far too long. The Opposition will move in the Committee stage to amend the period for the commencement of a review from five years to two years, which will bring it into line with the two-year period that was in the initial Act. The Opposition believes it will provide more integral accountability and evaluation of this bill. This is very important legislation in its impact on individual rights and its effectiveness. The Opposition believes that the review process is a very important way to evaluate performance under the Act. The Opposition asks the Government to support its foreshadowed amendment that will only improve the bill and ensure better accountability down the track.

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [2.32 p.m.], in reply: I thank honourable members for their contributions to the Child Protection (Offenders Registration) Amendment Bill 2007, which introduces mechanical changes to enable the smoother operation of the Child Protection (Offenders Registration) Act 2000. The bill also introduces changes identified in the statutory review that will provide police with more information when investigating and prosecuting child sex offences committed by recidivist offenders. The amendments arising from the review cover a range of issues related to the registration reporting requirements of certain people on the New South Wales Child Protection Register.

In particular, the bill allows police to take and retain DNA samples of people on the register, extends the circumstances in which courts may issue child protection registration orders, increases the penalties from two to five years when people breach their reporting obligations under the Act, requires a person on the register

to provide police with their email and chat room addresses, and any other electronic communication identifiers they may use, and tightens reporting requirement for registrable persons by, for example, requiring all initial reports to be made to police within seven days. The total package of reforms presented in this bill will make the Child Protection (Offenders Registration) Act 2000 a more effective statutory basis to underpin the New South Wales Child Protection Register.

In relation to public knowledge of where a registrable person lives, the Government does not support general disclosure to the community of names and addresses of child sex offenders. There are legitimate concerns that notification may reduce the protection offered to children, including that it is likely to increase the reporting obligation non-compliance rates of persons who are required to be on the Child Protection Register. A fully public register would allow paedophiles to easily find details of other child sex offenders in order to form networks. It could identify victims in cases where someone has abused a family member, adding to the victim's trauma. It may discourage people from reporting child sex abuse that occurs within the family.

Offenders would be more likely to move more frequently to escape community hostility, making it more difficult to monitor them. It may discourage guilty pleas, and would be likely to lead to increased community vigilantism. The New South Wales Police Force has an information disclosure policy for people on the Child Protection Register. The policy is used in cases where police have fears that a person on the register currently poses a risk to a child or children. In those cases police are able to disclose details from the register to relevant people or bodies. This is only used as a last resort to protect the community. 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 7 agreed to.

The Hon. CATHERINE CUSACK [2.36 p.m.]: I move:

Page 15, schedule 1 [35] line 15, omit "5 years", insert instead "2 years".

The background to this matter relates to the amount of time it appears to take the Government to complete its reviews of legislation. The original Act of 2000, which was proclaimed in 2001, provided for a two-year review by the Ombudsman. In 2003 the review commenced, as scheduled, and the Ombudsman completed his review and forwarded it to the Minister in May 2005. Unfortunately, the wording of the Act contains those wonderful words "as soon as possible". When the Minister received the Ombudsman's report he was required to table it in Parliament as soon as possible but he did not table it at that time. In October 2005 the Ombudsman, Bruce Barbour, spoke out publicly because he wanted to know why such an important and in-depth report had not been tabled.

The Ombudsman should be rightly proud of that report, which is well over 200 pages long. It was an in-depth study of all of the cases and their progress. It was an important and thorough report. As of October the report was still not tabled in the Parliament, six months after it was provided to the Minister. I heard radio reports of the Ombudsman calling on the Government to table his report. I contacted his office to find out how many other reports of legislation that the Parliament has required to be reviewed after a period have been given to the police Minister, or more frequently the Attorney General, and have not been tabled. Because of the loophole that says they have to be tabled as soon as possible the Government sits on them and lets them gather dust in the in-tray, and abuses the latitude in the wording of the Act.

I was referred to the Ombudsman's annual report and I discovered that at least six of such reports were more than six months overdue for tabling in Parliament. The Opposition moved a call for papers to obtain for the House what I consider was the property of the House: the Ombudsman's report to the Parliament on the progress of the legislation. Late November that call for papers was passed, and I thank the members of the crossbench for their support on that matter, which resulted in the Attorney General releasing all the Ombudsman's reports in December. The final tabling of the Ombudsman's report triggered a further review under section 26 of the Act. This required the Ministry of Police, or the Government in any event, to undertake a

further review as soon as possible to ensure that the legislation still complied with the objectives of the Act. The purpose of the review, in the words of the Ombudsman, was to see "whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives".

The Ombudsman's report was a source document for the further review undertaken by the Government; in this case "as soon as possible" meant that it took another 12 months. The Government's report to Parliament on the review of the Child Protection (Offenders Registration) Act 2000 was completed by the Ministry of Police in November 2007 and tabled by the Government on 30 November. Of course, the report was part of the dump of documents and legislation tabled in the week after the Federal election, which the Parliament has experienced in the pre-Christmas rush. That means that we have had only five days to look at the report and consider the legislative amendments so that they can be passed by the Parliament before Christmas.

Members of Parliament have had only five days to consider the culmination of the review process, which has continued for eight years. That is a short time frame but, unfortunately, it is not inconsistent with the Government's attitude towards sharing information. As I said, the original review was initially scheduled to take place two years after the original bill was assented to. I appreciate that it is too ambitious to have a review completed within two years and then expect legislative amendments to be proposed within 12 months. However, had the original two-year review period been complied with, it would still be three or four years before we considered amendments and the weighty analysis of issues arising from the Act.

This bill provides for a further review process. We believe that a review of legislation of this nature is vital. Not only is a review important in terms of operation of the Act; the principle Act operates in the context of other State legislation and in the context of Commonwealth and State efforts to monitor the activity of child sex offenders to modify their behaviour. The Act operates in conjunction with many other State Acts, as well as legislation in other States and the Commonwealth. So we feel that five years is too long a period to wait before commencing a further review. In this amendment the Opposition proposes that a further review commence two years after the bill is assented to. Assuming the bill is assented to some time next year, a further review of the Act would commence in 2010. If that is the case, we accept that it will take several years to reach any outcomes. This amendment is modest. It is commonsense. It will assist the Government, and it will improve the legislation. It will enable us to continue to monitor one of the most important Acts passed by the New South Wales Parliament in the past 10 years and which has huge impacts on individuals and on a vulnerable group in our community.

Reverend the Hon. FRED NILE [2.42 p.m.]: The amendment seems reasonable in respect of maintaining the pattern of reviewing the legislation after two years. There are always events occurring in the child sexual abuse area—new information, new policies and changes to policies. It would be better to undertake the review after two years so that any new information could be taken into account in that review, which may result in amendments to the legislation. I noted what the Hon. Catherine Cusack said about delays in getting the reports. I wonder whether item [35] in schedule 1 should be amended to provide that a report of the review will be tabled in Parliament no later than one month after being received by the Minister. It may not be possible to amend the bill today but the Minister could give an assurance that the review will be tabled in Parliament one month after it is received—the Minister may feel that it should be three months but not one year later—which is the purpose of the review.

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [2.44 p.m.]: In response to the Opposition's amendment, five years is the standard amount of time for the review of the legislation. The Government fully supports the beneficial review of the legislation to ensure that the intent of the Parliament is realised, to identify areas for improvement and to rectify any loopholes or inadvertent practical inadequacies. For the full benefits of the review to be realised it is necessary to allow changes to settle and for new laws to be utilised before being reviewed. For example, in 2004 the Government made substantial changes to the Child Protection (Offenders Registration) 2000 when New South Wales led the expansion of the mandatory registration system from operating only within New South Wales to being a national model endorsed by the Australasian Police Ministers' Council. It would have been difficult, to say the least, for an accurate assessment to have been made about the operation of the new requirements within a shorter time frame. In short, the Government fully supports the principle that legislation must be reviewed in a timely manner. However, we believe that less than five years is too short a time for any review to make practical or useful recommendations.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 19

Mr Ajaka
Mr Clarke
Mr Cohen
Ms Cusack
Ms Ficarra
Mr Gallacher
Miss Gardiner

Ms Hale
Dr Kaye
Mr Khan
Mr Lynn
Mr Mason-Cox
Reverend Nile
Ms Parker

Mrs Pavey
Mr Pearce
Ms Rhiannon

Tellers,
Mr Colless
Mr Harwin

Noes, 19

Mr Brown
Mr Catanzariti
Mr Costa
Ms Griffin
Mr Hatzistergos
Mr Kelly
Mr Macdonald

Mr Obeid
Mr Primrose
Ms Robertson
Mr Roozendaal
Ms Sharpe
Mr Smith
Mr Tsang

Ms Voltz
Mr West
Ms Westwood

Tellers,
Mr Donnelly
Mr Veitch

Pair

Mr Gay

Mr Della Bosca

The CHAIR (The Hon. Amanda Fazio): Order! The vote being equal, I give my casting vote with the noes and declare the question resolved in the negative.

Amendment negatived.

Schedule 1 agreed to.

Schedules 2 to 4 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Eric Roozendaal agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Eric Roozendaal agreed to:

That this bill be now read a third time.

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

GENE TECHNOLOGY (GM CROP MORATORIUM) AMENDMENT BILL 2007

CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT BILL 2007

Message received from the Legislative Assembly returning the bills without amendment.

COURTS AND OTHER LEGISLATION AMENDMENT BILL 2007

Second Reading

Debate resumed from 4 December 2007.

The Hon. PENNY SHARPE (Parliamentary Secretary) [2.55 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 Courts and Other Legislation Amendment bill 2007 provides for miscellaneous amendments to court related legislation and is part of the Attorney General's regular legislative review and monitoring program.

Coroners Act 1980

Schedule 1 of the bill makes some important clarifying amendments to the Coroners Act 1980.

Coroners are responsible for investigating the circumstances surrounding reported deaths, fires and explosions.

They are required to investigate deaths and establish the identity of the deceased, the time and place of death and the cause and manner of death.

Coroners are also required to establish the cause and origin of fires or explosions.

Section 19 of the Coroners Act 1980 provides that if a person is charged with an indictable offence in relation to a death, fire or explosion, the coroner may decide not to commence an inquest or inquiry until criminal proceedings are concluded.

Similarly, if the coroner forms a view during an inquest or inquiry that a person should be charged with an indictable offence, the coroner will terminate the inquest or inquiry and refer the case to the Director of Public Prosecutions to consider initiating criminal proceedings.

The purpose of section 19 of the Act is to ensure that any criminal proceedings take precedence over coronial inquests and inquiries.

Once criminal proceedings are either concluded or a decision has been made not to prosecute, then section 20 of the Act was intended to permit a coroner to commence or continue an inquest or inquiry.

However, the recent decision of the Supreme Court in *Innes & 2 ors v New South Wales Senior Deputy State Coroner* [2007] NSWSC 1209 held that section 20 did not achieve this objective.

Prior to this decision, the view was held that section 20 enabled coroners to recommence an inquest or inquiry once proceedings for an indictable offence were finalised.

Coroners relied on section 20 as authority to continue proceedings for the purpose of making findings in relation to the cause and manner of deaths or the cause and origin of fires and explosions, and to make any recommendations when handing down these findings.

Accordingly, the proposed amendments in this bill are intended to clarify provisions relating to the termination of inquests and the subsequent continuation of an inquest or inquiry and restore the legislative interpretation that existed prior to the Supreme Court's decision.

The proposed amendments will confirm that the role of the coroner has not concluded when an inquest or inquiry is terminated and that it is open to the coroner to continue proceedings at a later stage to complete the proceedings.

In some instances, it will be unnecessary to do so, for example, where criminal proceedings have fully exposed issues relating to the cause and manner of death.

However, in other instances there may be issues relating to the death that have not been fully canvassed in the criminal trial and the coroner may therefore wish to continue the inquest or inquiry.

The proposed amendments will make it clear that the inquest or inquiry may be continued either by the original coroner who terminated proceedings or, if that coroner is unavailable, by another coroner who is informed of the case.

They will also create an express right for persons who had a right of appearance at the original inquest or inquiry to request that the inquest or inquiry continue.

Amendments to the Land and Environment Court Act 1979

The bill also makes some amendments to the Land and Environment Court Act 1979.

Under section 34 of that Act, a commissioner can meet informally with the parties on-site to discuss the issues in a case and help them to reach an agreement.

Legal representatives, experts and objectors can also attend this conference.

If an agreement is reached at or after a conference, the commissioner must dispose of the proceedings in accordance with the agreement.

If an agreement is not reached, then the case will proceed to a hearing.

Evidence cannot be adduced about what occurred in a section 34 conference without the parties' consent.

Section 34 conferences are similar to mediations in that both are designed to bring about agreements between the parties in a less formal environment.

There is currently a prohibition on the disclosure of information about section 34 conferences, which is similar to the prohibition that applied to court ordered mediations before the Civil Procedure Act 2005.

Prior to the Civil Procedure Act 2005, evidence could not be called and was not admissible about what occurred in the mediation.

However, the recent Courts Legislation Amendment Act 2007 amended section 34 of the Land and Environment Court Act 1979 to allow evidence to be called and to be admissible: about an agreement or arrangement that IS reached following a mediation; and in circumstances where the court is being asked to make an order to give effect to the agreement or arrangement.

This change was modelled on the Civil Procedure Act 2005 provision relating to mediation.

However, section 30 of the Civil Procedure Act 2005 also provides that the same privilege that applies to judicial proceedings with respect to defamation also applies to a mediation session and to documents produced for the mediation.

But there is currently no similar provision in relation to section 34 of the Land and Environment Court Act 1979.

Without the protection afforded by section 30 of the Civil Procedure Act 2005, parties involved in a section 34 conference might be less frank and less willing to make concessions to settle a dispute.

Accordingly, the proposed amendment to section 34 of the Land and Environment Court Act 1979 will apply the approach taken in relation to mediations under the Civil Procedure Act 2005 to section 34 conferences.

This will ensure that the same privilege that applies to judicial proceedings with respect to defamation also applies to section 34 conferences and to documents produced for these conferences.

Legal Profession Act 2004

Schedule 3 of the bill makes some minor amendments to the Legal Profession Act 2004 in order to tidy up provisions relating to references to 'legal practitioners' in several older pieces legislation.

Many pieces of legislation refer to 'legal practitioners' in a variety of different senses.

The proposed amendments will help to clarify the intention of these older references to legal practitioners, and to have those intentions reflected in the Legal Profession Act 2004.

Young Offenders Act 1997

The bill also amends the Young Offenders Act 1997 to improve the operation of the system of warnings, cautions and youth justice conferences in New South Wales.

A number of these amendments have arisen as the result of a recent statutory review of the Young Offenders Act 1997 undertaken by the Attorney General's Department of New South Wales.

In addition, the bill contains amendments that implement recommendations made by the New South Wales Law Reform Commission in its recent Report Number 104, entitled Young Offenders.

The Young Offenders Act 1997 provides an alternative process to court proceedings for young people who commit certain types of offences.

The Act provides for the use of warnings, cautions and youth justice conferences to rehabilitate young offenders and to deter re-offending.

Very serious matters like murder, manslaughter, other offences resulting in the death of a person, sexual offences, drug trafficking, and apprehended violence matters cannot be dealt with under the Act.

In October 2006, the Bureau of Crime Statistics and Research released a report that found that the Young Offenders Act 1997 is succeeding in reducing juvenile re-offending in New South Wales.

The report concluded that juveniles who receive a caution or attend a youth justice conference are notably less likely to re-offend than those who are referred to the Children's Court.

Accordingly, the young offenders' scheme is playing an important role in achieving the Government's State Plan priorities of reducing reoffending and reducing anti-social behaviour.

By strengthening and improving the operation of the Young Offenders Act 1997, this bill will further contribute to these priorities.

I will now detail some of the key provisions in the bill concerning the Young Offenders Act 1997.

The first key amendment is to allow a broader range of victims of crime to confront young offenders at youth justice conferences.

Under the Act, a victim of crime is able to participate in a youth justice conference where they have suffered harm as the result of an act committed by a child in the course of a criminal offence.

The definition of harm in section 5 of the Act currently applies where the victim has suffered 'mental illness' or 'nervous shock'. Both of these concepts now have narrow medical and legal meanings.

The definition will therefore be expanded to include anyone who has suffered other sorts of psychological harm as a result of an offender's actions including fear, humiliation, shame or stress.

The definition of 'harm' will also be expanded to cover victims who have suffered purely financial loss, in addition to those whose property has been lost, destroyed or damaged.

By allowing a wider range of victims to attend youth justice conferences, this amendment will ensure an even greater role for victims of crime in the juvenile justice system.

And by allowing more victims to have a say in how a young offender is to be punished, the amendment will force even more juvenile offenders to face up to the consequences of their behaviour, and the effect that it has on the community.

The second key amendment in the bill will allow victims to have their voices heard as part of the cautioning process under the Young Offenders Act 1997.

Under the Act, both Police and the Children's Court have a discretionary power to issue a formal caution to a young offender.

Being given such a caution is a serious matter—the young offender must face a senior police officer at a police station, with their parents or guardian, and confront the offence they have committed.

Under the amendment being put forward in this bill, a young offender receiving a caution will also have to face up to the impact that their behaviour has had on their victim.

Victims will be allowed, in appropriate circumstances, to prepare a written Statement detailing the impact that the young offender's behaviour has had on them.

These Statements may then be read to the offender as part of the formal cautioning process.

Through this process, victims will be able to have their voices heard, and young offenders will be made to understand the impact their behaviour has on others.

The third key amendment in the bill will confirm that police officers, where appropriate, can notify the parents or guardians of a juvenile offender, either in writing or in person, that a warning has been administered to their child, or to a child in their care.

This amendment confirms current police practice, and will ensure that parents and guardians are aware of their children's offending behaviour, particularly where it involves risk of harm to the young person or other members of the community.

This will allow parents and guardians to play a greater role in monitoring the behaviour of their children.

Another key amendment in the bill will confirm that a young person who is cautioned or undergoes conferencing would have to declare that fact when applying for child-related employment later in life.

This is an important amendment because, while many young offenders are given the opportunity to rehabilitate and put their offending behaviour behind them, the New South Wales Government is not prepared to take any risks when it comes to people working with children.

The bill will also amend the Young Offenders Act 1997 to make it clear that the Act is consistent with the Children's (Criminal Proceedings) Act 1987 in relation to the age at which persons may be dealt with under the Act.

This clarification was recently recommended by the New South Wales Law Reform Commission in its Report Number 104, Young Offenders.

The bill will give effect to this recommendation and rectify the anomaly.

This bill also contains a provision to amend the Young Offenders Act 1997 to allow police officers to observe the administration of warnings and attend youth justice conferences for training purposes.

This will allow individual police officers to develop a first-hand appreciation of how cautions and conferences impact on both offenders and victims, and to appreciate the important role that the young offenders scheme plays in reducing re-offending in New South Wales.

The final key amendment that I wish to speak to is an amendment to repeal provisions in the Young Offenders Act 1997 relating to the Youth Justice Advisory Committee, which is also known as YJAC.

YJAC is a statutory body that was established under the Act to advise the Attorney General and relevant Ministers on its implementation.

Now that the young offenders scheme has been established for some 10 years and is operating well, YJAC has met the majority of its statutory terms of reference.

The Government has therefore decided to combine the functions of YJAC with those of the Juvenile Justice Advisory Committee, which is also known as JJAC, into a new single body.

This body would be able to provide independent and more co-ordinated advice to the Government on matters relating to juvenile justice.

We are currently considering terms of reference for this body to best reflect the priorities of the New South Wales State Plan.

By removing the statutory basis for YJAC, this bill will allow the Government to move forward with combining the two bodies, and thereby ensure that co-ordinated advice is provided to the Government on the full spectrum of juvenile justice issues.

As I noted earlier, many of the amendments contained in this bill are based on the recommendations of a statutory review of the Young Offenders Act 1997, as well as those put forward by the Law Reform Commission in its Report Number 104, Young Offenders.

The amendments will make the young offenders' scheme even more effective at reducing anti-social behaviour amongst young people in New South Wales, and in reducing re-offending. I commend the bill to the House.

The Hon. JOHN AJAKA [2.55 p.m.]: The Courts and Other Legislation Amendment Bill 2007 seeks to amend the Coroners Act 1980 in relation to the suspension and continuation of inquests and inquiries, the Land and Environment Court Act 1970 in relation to privilege and conciliation conferences, the Legal Profession Act 2004 in relation to a transitional matter, and the Young Offenders Act 1997 in relation to miscellaneous matters, and to make consequential amendments to certain regulations.

The Opposition does not oppose the bill. I begin with the proposed amendments to the Coroners Act 1980. At present section 19 of the Act provides that if a person is charged with an indictable offence in relation to a death, fire or explosion the Coroner may decide not to commence an inquest or inquiry until criminal proceedings are concluded. Similarly, if the Coroner decides during an inquest or inquiry that a person should be charged with an indictable offence the Coroner will terminate the inquest and refer the case to the Director of Public Prosecutions. Section 20 was intended to permit the Coroner to commence or continue the inquest or inquiry upon the conclusion of criminal proceedings. However, the recent decision of the Supreme Court in *Innes and 2 ors v NSW Senior Deputy State Coroner; Commissioner of Police v NSW Senior Deputy State Coroner* [2007] NSWSC 1209 held that:

Even though there is otherwise a prohibition on the commencement or continuation of any inquest, Section 20 provides that after the termination of the inquest, a further inquest may be conducted provided, relevantly, that any charges arising have been finally dealt with.

Section 20 does not deal with who would conduct such an inquest, how it would be re-agitated and who, if anybody, would re-agitate it. The section overcomes of the restrictions imposed by Section 19 of the Act.

A party must look to other sectors of the Act in order to find the specific power to require the holding of a further inquest upon application of a party. Section 20 does not carry that power.

Accordingly, the bill seeks to annul the binding effect of this judicial decision with respect to its deviation from the meaning with which Parliament intended in regards to section 20 of the principal Act. The bill seeks to amend the Coroners Act 1980 to state that a Coroner may continue an inquest or inquiry that has previously been terminated. The bill also seeks to add provisions to authorise the State Coroner, or his or her agent, to resume or dispense with a suspended inquest or inquiry if the Coroner who adjourned it, or did not commence it, is unavailable. The proposed amendments will restore the legislative interpretation of section 20 that prevailed prior to the decision in *Innes*, bringing the trend of statutory construction of the section back into line with the initial parliamentary intention.

I turn now to the proposed amendments to the Land and Environment Court Act 1979. The bill seeks to amend the Act such that the same privilege that applies to judicial proceedings with respect to defamation applies in relation to conciliation conferences and documents produced in relation to such conferences. Under the Land and Environment Court Act 1979 as it now stands, a commissioner can meet informally with the parties to help reach an agreement, as with mediation proceedings. Currently, there is a prohibition on the disclosure of information in these conferences. Recently, similar provisions in the Civil Procedure Act were changed to provide that the same privilege that applies to judicial proceedings with respect to defamation applies also to mediation sessions. This will extend the provision to conferences in the Land and Environment

Court. It has been argued that the protections offered by the proposed amendments will make parties more candid and open in their negotiations and more willing to make concessions to settle their disputes.

I refer, next, to the proposed amendments to the Legal Profession Act. Prior to the enactment of this legislation in 2004, persons were admitted as legal practitioners. Since the enactment of this legislation the Supreme Court admits those persons as lawyers. Some minor amendments are made to the Legal Profession Act in order to clarify and update provisions relating to references to legal practitioners in older legislation following the Legal Profession Act. The bill seeks to insert in the principal Act that a legal practitioner, where the term is not so expressed of a specified period of standing, is to be read as a reference to an Australian lawyer of that period of standing. The proposed amendments would bring consistency and uniformity to the relevant Acts.

I turn, finally, to the proposed amendments to the Young Offenders Act 1997. Having regard to the changes to this Act, the primary objectives of the bill include: first, to address the overrepresentation of Aboriginal and Torres Strait Islander children in the criminal justice system; second, to expand the definition of "victim" to include people who, as result of an act, suffer psychological harm that does not amount to mental illness or nervous shock, and people who suffer financial harm than property loss; third, to expand the Act to apply in relation to a person who is or was a child when the offence was committed and is under the age of 21; and, fourth, to provide that an investigating official has at least 14 days to consider whether a child should be dealt with under part 3 or part 4 of the Act, or referred to a specialist youth officer under part 5.

The fifth primary objective of the bill is to provide that one of the circumstances in which an admission by a child of an offence is an accepted admission if he or she is aged over 14 and the admission takes place in the presence of an adult chosen by the child; and, sixth, to insert a new section to enable an investigating official who gives a warning to a child to give the parents of the child notice unless it would pose an unacceptable risk to the safety of the child. Furthermore, a requirement is inserted that the record of a warning made is destroyed or expunged once the person reaches the age of 21. The seventh primary objective is to insert a new section to enable a person arranging for a caution to be given to a child to seek a written statement from any victim, to give guidance to the victim as to this statement, and to provide such statement to the person giving the caution.

The eighth primary objective is to insert a provision that a person proposing to give a caution may defer doing so in certain circumstances and may choose to read out some or all of the statement; ninth, to confer on the court a power to give a caution with the requirement that, if a caution is given, the proceedings be dismissed; tenth, to enable one student or probationary police officer to be present for training purposes when a caution is given, with the consent of the child; eleventh, to insert a new section to require that any fingerprints obtained from or photographs taken of a child in connection with an offence are destroyed if a caution has been given; and, twelfth, to enable records of cautions and conferences to be divulged to authorised persons.

The thirteenth primary objective is to create an exemption from limitations on the need for a person to disclose warnings or cautions so that such limitations do not apply in relation to an application by a person for employment in child-related employment; fourteenth, to abolish the Youth Justice Advisory Committee; and, fifteenth, to alter the provisions of youth justice conferences by clarifying that a conference administrator's obligation to appoint a conference convenor arises only when he or she is satisfied that a referral for that purpose has been made, and provided that a conference is convened within 21 days instead of the 21 days that are required at present, enabling a police officer to be present at a conference if consent is given.

The bill amends the Young Offenders Act to strengthen the operation of the system of warnings, cautions and youth justice conferences with a view to rehabilitating young offenders and deterring their reoffending. This scheme does not apply to very serious matters. The bill seeks to implement several recommendations made by two reports—namely, the report of the Attorney General's Department, which was completed in 2002, and the report of the New South Wales Law Reform Commission, which was completed in 2005.

A 2006 Bureau of Crime Statistics and Research [BOCSAR] report found that, of the young people who received a police caution for the first time, 42 per cent reoffended within five years and the proportion of conference participants who reoffended was 58 per cent. Whilst those figures are high they appear to be lower than the figures for young persons who appeared in the Children's Court for the first time, which was approximately 63 per cent. The Government argues that this report shows that juveniles who receive a caution or attend a conference are notably less likely to reoffend. Accordingly, this scheme is important in reducing the rates of reoffending and the level of antisocial behaviour.

It must also be noted that the experience in New South Wales, as stated in the Bureau of Crime Statistics and Research report, has considerably higher reoffending rates than those found in other States. The Opposition deplores the Government's delay in addressing the apparent deficiency of New South Wales young offenders schemes with respect to reoffending and rehabilitative needs. More work must be done. The report also cautions that although there remains a difference in the rate of court appearances for those given a caution verses a conference, this should not necessarily be taken as an indication of the relative efficiency of cautions. It is likely that most—and possibly all—the differences reflect the fact that low-risk offenders are more likely to be given a caution instead of a conference.

The bill makes several changes to the current Young Offenders Scheme. First, a broad range of victims of crime will be able to confront young offenders at conferences. Second, victims will be able to have their voices heard as part of the cautioning process. Third, the bill will confirm that police officers, where appropriate, can notify the parents and guardians of an offender that a warning has been administered. Furthermore, the list of circumstances where applications for employment must disclose information on such intervention is expanded to include applications for employment in child-related occupations. It has been argued that it is both premature and rash to abolish the Young Offenders Advisory Committee, as proposed by the bill.

It is argued by the Government that this committee has met the majority of its statutory terms of reference and, under the proposed amendments, its functions shall now be combined with the Juvenile Justice Advisory Committee, and a new body formed at a later date. Given the relatively high rates of reoffending, it is a questionable proposition that the Young Offenders Advisory Committee has become redundant. It has been argued that there is a continuing need for this committee as a body separate from the juvenile justice committee. I note, however, that the proposed amendments make the granting of a caution more severe, afford a greater opportunity for children to voice their concerns, whilst enabling parents to play a more significant role in monitoring their children. The Opposition advocates a grass roots approach to juvenile rehabilitation. It encourages parental responsibility and acknowledges the significance of the stable family unit in addressing the causes of youth crime. For the reasons stated earlier, the Opposition does not oppose the bill.

Ms LEE RHIANNON [3.07 p.m.]: The Courts and Other Legislation Amendment Bill amends a series of court-related Acts, including the Land and Environment Court Act, the Coroner's Act, the Legal Profession Act and the Young Offenders Act. Because of the way in which this Government has treated members in the last sitting week we have not had much time to consider this bill with the thoroughness that it deserves. We have not had time to consult with stakeholders. It is most unfortunate that this pattern is repeated year after year. It is important to note just how unsatisfactory current arrangements are. Rushing through legislation like this is no way to make and change laws in New South Wales. In fact, it shows very little respect for our democratic process.

The Hon. Greg Donnelly: Why don't you work a bit harder?

Ms LEE RHIANNON: I acknowledge the member's interjection because I am proud of how hard the Greens team has worked. Most people in this Parliament work hard.

The Hon. Greg Donnelly: I suppose you were asleep at 2 o'clock?

Ms LEE RHIANNON: I was not asleep at 2 o'clock; I was debating legislation in this Chamber. There is nothing wrong with people sleeping at 2 o'clock; that is what human beings should be doing, except for those few people who, for various reasons, have to do shift work. The member does his side no credit at all by interjecting in that manner. My office has been in contact with the New South Wales Environmental Defender's Office regarding changes to the Land and Environment Court Act. I understand the Environmental Defenders Office does not oppose this amendment.

This bill will amend section 34 of the Land and Environment Court Act and will provide protection against defamation regarding documents or comments made during conciliation mediation in the Land and Environment Court. This will make Land and Environment Court mediations consistent with other proceedings in New South Wales under the Civil Procedure Act. The Greens support this amendment as it will make parties more comfortable in negotiating during conciliation. In turn, this will make settlements more likely because parties will not be fearful of defamation proceedings if what went on in conciliation is not used in court. This amendment is in keeping with court as a last-option approach.

The bulk of this bill deals with changes to the Young Offenders Act supposedly to improve the operation of the system of warnings, cautions and youth justice conferencing in New South Wales. The Greens

support diversionary measures to keep young people out of jail. It is documented clearly that shunting people into juvenile detention centres at a young age chiefly breeds further crime and disadvantage. I am sure we all agree that young people deserve better, and hopefully we agree also on the means to achieve that. I am pleased that the Government admitted in the agreement in principle speech that a youth who is cautioned or attends a youth justice conference is notably less likely to reoffend than those referred to the Children's Court. This was confirmed in the October 2006 report of the Bureau of Crime Statistics and Research.

It is refreshing and unusual for the Government to make this admission, given that most times a Minister talks about young people and crime usually it is in the context of laws that seek to lock up young offenders more often and for longer periods, or just generally to vilify young people in the law and order context. The Greens congratulate the Government on seeking to extend and improve the system of warnings, cautions and youth justice conferencing. We support amendments to allow a broader range of victims of crime to confront young offenders at youth justice conferences. This will mean that the youth justice conferencing system is extended, which is very welcome.

We support also the amendments that flow from the recommendations of the New South Wales Law Reform Commission's Report No. 104 on young offenders. Unfortunately, this bill does not go very far in implementing the recommendations of the commission. In particular, the commission would like to see the scope of the Young Offenders Act extended. It advises that "the only reason why an offence should, in principle, be excluded from the operation of the Young Offenders Act is that it is so serious that, even in the case of a young offender, it cannot appropriately be dealt with by a diversionary option."

The Greens are concerned that the amendment confirms that a young person who is cautioned or undergoes conferencing would have to declare that fact when applying for child-related employment later in life. Surely this is a serious invasion of privacy. It is important that young people are given the opportunity to rehabilitate, to turn over a new leaf. They should not be subject to ongoing discrimination because of a one-off or minor offence committed while under 18 years of age. Clearly, if a young person has committed a serious offence, he or she would be subject to an actual charge and this would be on that person's record for employers to access in the future. Clearly this is an unnecessary aspect of the changes.

An unintended consequence of this bill is that young offenders are more reluctant to admit their crimes due to the long-term impacts on their employment prospects and, instead, we see more young people ending up in front of the Children's Court defending charges. Needless to say, this change does not flow from the Law Reform Commission's recommendations. We need to ask the Government: Where is the money coming from? This bill seeks to extend youth justice conferencing, which does not come cheap. I see no reference in the bill to provide extra funding to accommodate this extension. Resources for youth justice conferencing already are stretched to the limit. Often the reports talk of limitations because of lack of resources. These amendments will end up being little more than words gathering dust on the statute book unless we see money flowing from the New South Wales Government. The advanced and beneficial aspects of this bill actually then can become reality. I look forward to the Minister's comments in reply.

Reverend the Hon. FRED NILE [3.14 p.m.]: The Christian Democratic Party supports the Courts and Other Legislation Amendment Bill 2007. The bill contains a number of amendments to other Acts. It amends the Coroners Act 1980 in relation to the suspension and continuation of inquests and inquiries, the Land and Environment Court Act 1979 in relation to privilege and conciliation conferences, and the Legal Profession Act 2004 to clarify the term "legal practitioners" in regard to the more current usage of "barrister" and "lawyer". The most important aspect of this bill is to amend the Young Offenders Act 1997 in relation to miscellaneous matters, and to make consequential amendments to certain regulations, which we support.

I note also that in seeking to help young people in youth justice conferencing, the bill adds a new object to the Act to address the overrepresentation of Aboriginal and Torres Strait Islander children in the criminal justice system through youth justice conferences, cautions and warnings. This adds the same terminology to the principles of the scheme that will apply in the Act as amended by this bill. Urgent action should be taken to rectify the overrepresentation of Aboriginal and Torres Strait Islander children in the criminal justice system. Youth justice conferences, cautions and warnings certainly should be more widely used in that particular community because of its successful outcomes.

I urge the Government to ensure that Aboriginal and Torres Strait Islander adults are involved in the youth justice conferencing system. It is no good having a conference of six white or European people trying to deal with a young Aboriginal person in trouble with the law. The conference should include someone to whom

that young Aboriginal person can relate. Ideally, every effort should be made to have an Aboriginal representative on the youth justice conference. That is not impossible to achieve and certainly should be the aim of the Government. The bill also will improve the whole judicial system dealing with young offenders. In October 2006 the Bureau of Crime Statistics and Research released a report that found the Young Offenders Act 1997 had succeeded in reducing juvenile reoffending in New South Wales. The report concluded that juveniles who receive a caution or attend a youth justice conference are noted to be less likely to reoffend than those referred to the Children's Court.

I was involved with the parliamentary standing committee that worked on those recommendations. I am very pleased that the work of that committee has resulted in this progressive result of less juvenile reoffending. Certainly problems were encountered when some young people were placed straight into the Children's Court and justice centres. Often they learnt more about crime in those places than they knew already and sometimes became quite hardened by the experience. It is desirable for youth justice conferencing to help prevent a young person going into the justice system. The whole purpose of this bill is not to be soft on crime.

The key amending provision of the bill will allow a broader range of victims of crime to confront young offenders and youth justice conferences, and I believe that this is an improvement. The definition therefore will be expanded to include anyone who has suffered other types of psychological harm as a result of an offender's actions, including fear, humiliation, shame or stress. The bill also will allow victims to have their voices heard as part of the cautioning process under the Young Offenders Act 1997.

The wording of that provision seems to imply that in appropriate circumstances victims will be able to prepare a written statement detailing the impact upon them of the young offender's behaviour. I wonder whether an alternative process may be considered whereby an oral statement may be made so that the young offender is presented with the victim instead of a written statement merely being handed out during the youth conferencing procedure and read. I think there would be greater impact if the victim could be involved in the process. I understand that over the years that has been attempted at some youth conferencing meetings.

I recommend that the provision not be restricted to written statements but instead be expanded to allow face-to-face meetings between the victim and the young offender within the youth conferencing process. In other words, I am asking for provision to be made for statements to be in either oral or written form. The Christian Democratic Party is pleased to support the bill before the House.

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.21 p.m.], in reply: I thank all members who participated in the debate for their contribution and note that the bill has broad support. I will respond to a couple of issues raised during the debate. The Hon. John Ajaka expressed concerns about the bill's proposals to remove reference to the Youth Justice Advisory Council from the Young Offenders Act, and I will provide some more information. The Youth Justice Advisory Committee [YJAC] was established as part of the 1997 Act. The Government's view is that over the past 10 years it has met the majority of its statutory terms of reference but that, at this point at the crossover between the functions of the Youth Justice Advisory Committee and the Juvenile Justice Advisory Council and in view of the fact that there is a similar membership and expertise in both groups, the Government feels that basically it is more effective to bring them together instead of having two separate groups.

The Government does not feel that any loss of expertise will arise and confirms that this change in no way indicates any loss of focus on reoffending. The entire juvenile justice system is based on youth justice conferencing. The system is focused on reducing incidences of reoffending by young people. Ms Lee Rhiannon raised concerns about funding the implementation of the bill. I advise the House that the Department of Juvenile Justice is of the view that implementation of the bill will result in negligible resource impacts. The bill actually streamlines the number of ways in which youth justice conferencing, warnings and cautions operate. The department has advised that the bill can be implemented within the current resources of the department, and that the cost of implementation is not a matter of serious concern.

Ms Lee Rhiannon also raised concerns about the Government's rejection of the Law Reform Commission's recommendation 4.2 in relation to young offenders. I refer the honourable member to the Government's response to the Law Reform Commission's report setting out why it does not support extending the Young Offenders Act to all offences, including that it would allow serious offences, such as the supply of drugs, to be dealt with by way of conference. Section 8 of the Act allows a conference to be prescribed in the regulation as an offence. This approach is preferable to expanding the scope of the Young Offenders Act. I thank all honourable members who participated in the debate for their contribution. 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.

LOCAL COURT BILL 2007

MISCELLANEOUS ACTS (LOCAL COURT) AMENDMENT BILL 2007

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.24 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That these bills be now read a second time.

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

Leave granted.

The Local Court Bill 2007 will replace the separately constituted local courts in New South Wales with the Local Court of New South Wales, which will sit at various locations across the State. A similar change occurred in 1973 when the District Court of New South Wales was created from a number of separately constituted District Courts. Local courts play an important role in our justice system. The vast majority of people who come into contact with our justice system will do so in a local court. Local courts sit at 155 locations across the State. According to the Productivity Commission's Report on Government Services 2007, local courts handle more matters than any other court in Australia. In 2005-06, local courts finalised 90 per cent of the State's civil matters and 95 per cent of the State's criminal matters. They were the best performing local courts in Australia in 2005-06 in terms of timeliness, a distinction that it has achieved for the last four years running. Before I outline the bills, I will briefly outline the history of the local courts.

While the history of local courts stems from the British Crown, prior to that Aboriginal customary law that applied in New South Wales. Notwithstanding the achievements of various decisions of the High Court in relation to Aboriginal rights, more than any other court local courts have been instrumental in fostering initiatives that ensure traditional and customary law continues to play a role in Australia's legal system. One of those initiatives is circle sentencing, which successfully operates in a number of local courts across the State. Local courts trace their origin back to the bench of Sydney magistrates that was established by Governor Phillip. All of the men who were appointed to the magistracy between 1788 and 1810 held other government positions. It was not until 1819 that a magistrate was appointed to a paid position. Payment of magistrates did not become common practice until 1830.

The Courts of Petty Session were formally established in 1832. A Court of Petty Sessions was constituted by two or more justices of the peace sitting in open court at places designated by the Governor. During the nineteenth century, the judicial and administrative functions of magistrates continued to increase. In 1881, the Metropolitan Magistrates Act authorised the creation of skilled and trained stipendiary magistrates for the Sydney district, having exclusive jurisdiction to deal with summary criminal offences in Sydney. In 1902, the Justices Act consolidated colonial legislation and provided the legislative underpinning for handling criminal cases and statutory applications in local courts. This Act remained in force for approximately 100 years until it was replaced in 2003 by a significant raft of reforms.

From 1955, all newly appointed magistrates were required to be legally qualified. Female magistrates began to be appointed from the 1970s onwards. In 1982 the Local Courts Act abolished the Courts of Petty Session and created Local Courts in New South Wales. Since that time local courts have continued to play an increasingly important role in the justice system. Not only do they handle the largest number of cases each year in New South Wales, but they are also involved in innovative schemes designed to reduce reoffending. As I mentioned earlier, the circle sentencing program is now operating in several courts across the State. The Magistrates Early Referral into Treatment program, or MERIT, is designed to divert people into a short but intensive drug treatment program.

I turn now to the reasons that these bills are necessary. At present, each local court is established separately and proceedings are commenced in a specific local court. If a party wishes to have proceedings in one local court dealt with in another local court, the

party has to apply to have the proceedings transferred to the other local court. The current structure creates restrictions on the efficient operations of local courts. For example, a registrar for one local court cannot exercise powers in relation to proceedings at another local court. The current structure also restricts parties who are required to file documents in proceedings at a particular local court, even though it may be more convenient for the party to file a document at another local court registry. By contrast, courts such as the Supreme Court and the District Court are established as a single entity with authority to operate throughout New South Wales. A registrar in one location can make orders in a case that was commenced in another location without first having to transfer the case to the other location.

The Local Court Bill will create a local court of New South Wales. Court and registry services will be able to operate more effectively once there is a single court operating throughout the State. A party will be able to make inquiries about his or her proceedings at any registry instead of having to contact the registry where the matter is to be heard. In the future, parties will be able to electronically file documents centrally through JusticeLink even though the proceedings might be heard at courts across New South Wales. The Local Court Bill will replace the Local Courts Act 1982. It largely carries over existing provisions although there has been some reorganisation of provisions to ensure that similar matters are grouped together. To make the transition easier, section headings in the bill refer to the section on which the new section is based.

The bill preserves the appointments of existing magistrates and other officers and enables the court to continue to deal with existing proceedings. A number of changes are being introduced in the bill. These include, firstly, requiring a person to have a minimum of five years' experience as a legal practitioner before being appointed as a magistrate and, secondly, creating a single Local Court Rule Committee to make rules in relation to civil, criminal and application proceedings instead of the existing two rule committees. The Local Court Bill introduces the concept of a relevant registrar. Some Acts refer to actions that need to be carried out by the registrar of a particular local court, for example, notifying the Roads and Traffic Authority when a conviction or order is made under the Road Transport (Heavy Vehicles Registration Charges) Act 1995. This term will be used when an Act or regulation needs to refer to a registrar at a particular place instead of to registrars generally.

There are numerous references to local courts in Acts and regulations. The Miscellaneous Acts (Local Court) Amendment Bill will update these references with references to the Local Court of New South Wales. The changes being made by these bills will facilitate the Government's ongoing commitment to providing accessible court services across the State. I commend the bills to the House.

The Hon. JOHN AJAKA [3.25 p.m.]: The Local Court Bill 2007 seeks to replace the separate Local Courts in New South Wales with a unified Local Court of New South Wales. The bill also seeks to repeal the Local Courts Act 1982 and enact new provisions relating to the Local Court of New South Wales. The object of the Miscellaneous Acts (Local Court) Amendment Bill 2007 is to make amendments to various Acts and instruments as a consequence of the proposed Local Court Bill 2007. Similar changes to the structure of the court system were made in 1973 when the District Court Act 1973 abolished the District Courts and Courts of the Quarter Sessions and replaced them with one District Court of New South Wales with a statewide criminal and civil jurisdiction.

As stated by the member for Epping, Greg Smith, in the other House during the agreement in principle stage, one wonders why this proposal has taken so long because the District Court has had similar changes for many years. The Opposition does not oppose the bills. The Local Court Bill 2007 effectuates the unification of the many Local Courts in New South Wales into a single entity, the sittings of which will be held at various locations within New South Wales. As a result, parties will be able to institute proceedings in any court or have their matter moved to another court. At present, parties must apply to have their proceedings transferred to another court by making an application for a change of venue, exacerbating the cost of proceedings and causing undue delay. The bill seeks to streamline the court and registry system across New South Wales and promote administrative efficiency.

Given that the Local Courts of New South Wales handle the overwhelming majority of civil and criminal matters, it is highly important that they do so in an efficient and competent manner. The bill aids this process by ensuring that delays and costs are kept to a minimum. Schedule 1 of the bill preserves the appointment of magistrates, maintaining conditions of appointment and office that in large part are consistent with current provisions. However, the bill introduces amendments requiring magistrates to have practised for a minimum of five years as qualified Australian lawyers or to have previously held judicial office. This amendment will eliminate the scope for questionable appointments of persons who have been admitted as Australian lawyers for only a relatively short period and are caught up in criticism of appointments by, to use an Australian colloquialism, mates.

The Opposition emphasises the importance of transparency in the selection and appointment of new magistrates. With a view to maintaining public confidence in the separation of powers between the Executive and the judiciary, it is essential for there to be a perception that the avenues of selection are open, the criteria applied are readily accessible, and that the appointments are divorced from partisan political considerations. The bill repeals the Local Court Act 1982 and largely transfers its provisions to the proposed Local Court Act. However, it does not include the oath of office for magistrates that was previously contained in section 16 of the Local Court Act 1982.

Section 9 of the Oaths Act 1900 restores the requirement of an oath to be taken by all judges, magistrates and other judicial officers. Another void in the Local Court Bill 2007 relates to section 27 of the Local Court Act 1982, which stipulates a requirement of periodic reports by the Chief Magistrate. The bill does not contain any provision for such reports. However, despite the absence of a matching provision in the bill, reporting mechanisms currently are covered by the requirement for Chief Magistrates to participate in annual courts reviews and the National Report on Government Services.

The Attorney General's office has also advised that it does not believe the current section 27 powers match the needs of the Attorney General, and the Attorney General still has the power to request information on a specific basis. These provisions are the same as those governing information requests in the District Court and the Supreme Court. The Opposition wishes to emphasise the importance of ensuring that sufficiently experienced and trained staff hold positions in the new centralised Local Court Registry when the legislation comes into force. Indeed, as the member for Epping, Mr Greg Smith, noted in another place, it is essential that we avoid situations such as occurred in the Janine Balding case, when a grant of special leave for appeal to the High Court was obtained simply because a staple was not securing the indictment and orders of the Court of Criminal Appeal to other documentation.

The Opposition is wholly supportive of moves to increase the efficiency of court administration insofar as this does not compromise the high calibre of court registry staff and other personnel. I also note that changes made to the Local Court Rule Committee have ensured that the respective professional bodies appoint barristers and solicitors to the committee. This will eliminate representations from the Director of Public Prosecutions and the Legal Aid Commission while maintaining representation from the Attorney General's office and the Minister. There now also appears to be one committee for both civil and criminal matters instead of separate committees. The Hon. Barry Collier in the agreement in principle speech in another place on 13 November 2007 did not refer to the input of any key stakeholders such as the Legal Aid Commission and the Director of Public Prosecutions in formulating the changes. I emphasise the importance of having a thorough consultative process when proposing such amendments. The bill does nothing to change the current jurisdictional limit of \$60,000 in civil jurisdictions and does not change matters that can come before the Local Court in criminal jurisdictions. This maintains the fundamental structure of the legal system and does not sacrifice the jurisdictional limits of the court in pursuit of efficiency.

The Miscellaneous Acts (Local Court) Amendment Bill 2007 will necessarily update various Acts, instruments and provisions in order to effect the changes made by the Local Court Bill 2007. It also makes changes to terms and references. The Local Court Bill 2007, together with the Miscellaneous Acts (Local Court) Amendment Bill 2007, aims to facilitate effectively the provision of accessible and streamlined court services across New South Wales. Before I conclude my remarks I would like to bring a matter to the attention of the Attorney General and the Parliamentary Secretary for their consideration—namely, that the title "magistrate" be replaced with the title "Local Court judge". Magistrates used to be addressed as "Your Worship". I have heard them addressed as "Your Worship", "Your Eminence", "Your Holiness", "Your Lordship" and—my absolute favourite—"Your Greatness", usually by those who were not represented by legal counsel and who were hoping that the greater the title they bestowed upon the magistrate, the lesser their sentence would be.

It makes no sense, other than for traditional reasons, to refer to magistrates as "Your Worship" when it was known in the community that judges are addressed as "Your Honour". It would be truly a step in the right direction if magistrates were to be robed and addressed as "Your Honour" to ensure that defendants, especially young people, showed them the utmost respect. On that basis, I would submit that the term "magistrate" is outdated. I ask the Attorney General to consider replacing the term "magistrate" with "Your Honour". I note that there does not appear to be any constitutional difficulty with this change of title as under the Constitution Act 1902, Section 52 (1), Definition and application, "judicial office" encompasses both judges and magistrates. The streamlining reforms for the Local Courts are long overdue. As previously stated, the Opposition does not oppose the bills.

Ms LEE RHIANNON [3.34 p.m.]: The Greens do not oppose the Local Court Bill 2007 or the Miscellaneous Acts (Local Court) Amendment Bill 2007. The principal bill, the Local Court Bill 2007, will replace the separately constituted Local Courts in New South Wales with the Local Court of New South Wales. The newly constituted Local Court of New South Wales will sit at various locations across the State. I understand that this new arrangement will mirror the arrangements for the District Court that have been in place since 1973. The bill will smooth the functioning of Local Courts both for the staff and, importantly, for people who appear before the Local Courts. At present each Local Court is a separately constituted entity. A party to a case must file documents with the court in which they will appear, not the court that is closest to, or

most convenient for, the accused. The bill will allow parties to make inquiries and file documents at any Local Court registry.

Local Courts handle the lion's share of court work in New South Wales. In 2005-06 Local Courts finalised 90 per cent of the State's civil matters and 95 per cent of the State's criminal matters. The burden on Local Courts is immense, and I congratulate their tireless staff. The court system must be given sufficient resources to carry this burden, as must the prosecuting agencies and legal aid and community legal centres. Community legal centres are crying out for funding. The Greens call on the Labor Government, and particularly the Treasurer, the Hon. Michael Costa, to take seriously the budget submission put forward by the Combined Community Legal Centres Group (NSW) Incorporated. The submission calls for maintenance funding for community legal centres in New South Wales to increase from \$4,313,015 to \$8,018,776 per year and for enhanced funding of \$500,000 per year for the provision of new services relating to employment law, legal services for people with intellectual disabilities, and legal services for refugees.

This increased funding would mean that an additional 55,000 disadvantaged people could receive legal assistance services from New South Wales community legal centres every year. It would also allow centres to increase greatly the number of community legal education sessions they provide to client communities and to work on many more legal policy projects. Community legal centres play a key role in ensuring that all people in New South Wales—regardless of how much money they have in their pockets—have access to the justice system. The Greens call on the Government to deliver on the Combined Community Legal Centres Group funding submission in the next budget.

Reverend the Hon. FRED NILE [3.36 p.m.]: The Christian Democratic Party supports the Local Court Bill 2007, which replaces the separately constituted Local Courts in New South Wales with the Local Court of New South Wales, which will sit at various locations across the State. The bill is modelled on the legislation that created the District Court of New South Wales from a number of separately constituted District Courts. The bill provides for the appointment of magistrates and other officers of the Local Court and confers jurisdiction on the Local Court. I note that the Local Court system began with the first settlement in 1788. The first bench of Sydney magistrates was established by Governor Phillip. All the men who were appointed to the magistracy between 1788 and 1810 held other government positions. It was not until 1819 that a magistrate was appointed to a paid position, and payment of magistrates did not become common practice until 1830.

From my reading, I have learned that some early magistrates were reformed convicts who had become successful farmers and business people. This was an encouraging development. Obviously some of those transported to Australia during the convict era were not evil but had transgressed the barbaric laws in force in England at that time. So when they became free men many took the opportunity to improve themselves. Courts of Petty Sessions were formally established in 1832. The Justices Act consolidated colonial legislation and provided the legislative underpinning for handling criminal cases. The Act remained in force for more than 100 years until it was replaced in 2003 by new legislation.

From 1955 all newly appointed magistrates were required to be legally qualified. Female magistrates were appointed from the 1970s onwards. In 1982 the Local Courts Act abolished the Court of Petty Sessions and created the Local Court in New South Wales. As other members have said, the Government has to ensure that there are sufficient resources for Central Local Court to operate efficiently, and to meet all requests for information to allow the efficient conduct of the judicial system in this State. The Christian Democratic Party assumes the Government has included that in its budget, and we support the bill.

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.40 p.m.], in reply: I thank honourable members for their contributions to the debate on the Local Court Bill 2007, which is obviously not controversial. Principally it is administrative and replaces the separately constituted Local Courts in New South Wales with the Local Court of New South Wales, which will sit at various locations across the State. I will respond to two issues raised by the Hon. John Ajaka, the first of which related to consultation with regard to the operation of the new Local Court Rule Committee. Currently, the Local Court has two rule committees: one makes rules about criminal and application proceedings, while the other makes rules about civil proceedings.

The Director of Public Prosecutions and Legal Aid are represented on the committee that makes rules about criminal and application proceedings. A representative of consumer groups is to be a member of the committee that makes rules about civil proceedings. The two committees will be merged into one committee. Proposed section 25 relates to the membership of the Rule Committee. The members will include the Chief Magistrate and members of the legal profession. Under proposed section 25 (2), if the committee is making rules

about civil proceedings it will include a representative of consumer groups; under proposed section 25 (3), if the committee is making rules about criminal and application proceedings, it will include representatives from the Director of Public Prosecutions and Legal Aid.

The Hon. John Ajaka suggested a change of nomenclature from magistrate to judge. There is some argument to support such a change, but magistrates are treated in a similar way across all jurisdictions in Australia and the Government would prefer to remain consistent in that regard, and keep the name "magistrate". The Local Court Bill 2007 brings us into line with other jurisdictions by providing for a minimum period of qualification for appointment as a magistrate. 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.

LIQUOR BILL 2007

CASINO, LIQUOR AND GAMING CONTROL AUTHORITY BILL 2007

MISCELLANEOUS ACTS (CASINO, LIQUOR AND GAMING) AMENDMENT BILL 2007

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.43 p.m.], on behalf of the Hon. Ian Macdonald: I move:

That these bills be now read a second time.

Given that the second reading speech is quite lengthy, I seek leave to have it incorporated into *Hansard*.

Leave granted.

The current Liquor Act has been in place for almost 25 years. There have been many changes in our society in that time and we must ensure our laws properly reflect those changes. The liquor laws must meet the expectations, needs and aspirations of today's community for a variety of hospitality, dining and entertainment choices. The law should not create unreasonable barriers to innovation and competition. Red tape and costs for industry, Government and the community must all be minimised so that access to the liquor licensing system is available. The public interest is best served by laws that promote a responsible liquor industry through a flexible and practical system of regulation with minimal formality and technicality. The liquor laws should also contribute to the responsible development of related industries, such as the live music, entertainment, tourism and hospitality sectors.

Importantly, the liquor laws must continue to send a clear message to industry and the community about the need for responsible service and consumption of alcohol. Those who have responsibilities under the law, including regulators, licensees, and persons selling and supplying liquor, must consider the need to minimise alcohol-related harm. The law must encourage responsible attitudes and practices, and it must support the need for alcohol consumers to be responsible in their decisions and behaviour. It is time for a new Liquor Act that reflects modern regulatory practices and meets the needs of today's community.

The Liquor Bill 2007, the Casino, Liquor and Gaming Control Authority Bill 2007 and the Miscellaneous Acts (Casino, Liquor and Gaming) Amendment bill 2007 make up a reform package that will benefit the community for many years to come. The bills represent a complete rewriting of the New South Wales liquor licensing laws. They include comprehensive changes to the liquor regulatory framework which reduce complexity and cost. These changes simplify and modernise the law to aid understanding and enforcement. I seek leave to table some draft examples of the regulations and the proposed community impact Statement process.

Reforms in the Liquor Bill 2007 support the Government's program to reduce harm associated with alcohol abuse, and promote a culture of responsible service and consumption of alcohol. They help to promote industry sustainability and enhance access to the

liquor licensing system for all stakeholders. These bills have been developed from exposure drafts which were released for public consultation in November 2005. The Government received more than 900 submissions in response to those drafts from the community, local councils, business and Government agencies. Their views are strongly represented in this reform package. These new liquor laws strike a balance between community and industry needs, now and into the future.

I will now outline some of the principles of the bills and the new regulatory framework they establish. The objects of the Liquor Bill 2007 in particular have been enhanced compared to the current liquor laws. The new objects reflect the needs I have identified. In securing these objectives persons who have functions under the new laws will be required to have due regard to the need to minimise alcohol-related harm and encourage responsible attitudes and practices. The objects recognise the importance of a properly regulated liquor industry which is able to develop in a way which is consistent with the public interest. The objects also recognise that the manufacture, sale and supply of alcohol and the operation of licensed premises contribute to the economy and to society. These newly expanded objects will provide better guidance to regulators, licensees and the community on the purpose of the liquor laws.

These bills include plain English liquor laws which will benefit the whole community. The Liquor Bill 2007 represents a single Act for the regulation of liquor sales, including sales in registered clubs. All liquor industry sectors and liquor licensees will be subject to similar licensing standards. The Registered Clubs Act will now focus on club management, accountability and governance issues. Before I refer to the detail of the new licensing regime I will outline the arrangements for the new regulatory authority.

The centrepiece of these reforms is to take liquor licensing out of the courts and introduce an administrative-based system to reduce complexity and cost for industry, the community and Government. The new liquor licensing system will be simple and flexible. Liquor licence applications and disciplinary matters will be now considered by a new Casino, Liquor and Gaming Control Authority. Under this administrative process licensees and interested persons-including police, residents and local councils can make submissions directly to the authority. The authority will be able to conduct interviews, conferences and meetings to assist stakeholders to put forward their views. The administrative nature of the process will better allow differences to be resolved between parties without the need for expensive court hearings.

The Casino, Liquor and Gaming Control Authority Bill 2007 will establish the new authority. The practical outcome of the bill is that the role and responsibilities of the existing Casino Control Authority are expanded to cover the liquor and gaming sectors in addition to the casino sector. The Casino, Liquor and Gaming Control Authority Bill 2007 brings together in one place a range of provisions dealing with administration and other matters. Many of these provisions are currently replicated in the Liquor, Registered Clubs, Gaming Machines, and Casino Control Acts. Having all of these provisions in one Act will help to ensure consistency. It is important to note that these changes will not result in any diminution of the existing powers and responsibilities of the Casino Control Authority in relation to casino matters. These reforms essentially entail a minor change of name for the authority, and regulatory control over the casino will be unchanged.

There will also be no diminution of the powers of the regulatory authority in relation to the liquor and gaming industries in New South Wales. The powers and responsibilities of the authority will be equivalent to those of the existing Licensing Court and Liquor Administration Board. Any differences that arise are minor and result from the move from the current court-based system to an administrative-based system. Existing liquor licensing offences are carried forward, with maximum penalty levels either maintained or, in some circumstances, increased. These offence matters will be heard by local courts, with appeals available to the District Court. In fact, these bills will enhance regulatory control over licensed venues. I will provide details of these enhanced controls later.

Members of the Casino, Liquor and Gaming Control Authority will be appointed by the Governor on the recommendation of the Minister. The bill specifically provides that the authority will not be subject to the direction or control of the Minister except to the extent already provided for in the Casino Control and Gaming Machines Acts. The bills require that an authority member with substantial legal qualifications must be present when disciplinary decisions are made. Applications for a review of a non-casino disciplinary decision of the authority can be made to the Administrative Decisions Tribunal. I also point out that the Supreme Court has jurisdiction to review administrative decisions, such as those that will be made by the authority. The authority will appoint inspectors who assist police with the enforcement of the liquor and gaming laws. These inspectors have a strategic role, focusing on hot spots and assisting licensees and venue operators to ensure good management practice. They also provide valuable assistance to liquor accords.

The Casino, Liquor and Gaming Control Authority Bill 2007 carries across powers of entry, inspection and investigation for police and inspectors from existing Acts. Inspectors will continue to have the same role and responsibilities in relation to the casino and licensed venues as they do under the current law. To support this reform package the Government will provide an additional \$10.8 million to the Department of the Arts, Sport and Recreation over three years, commencing in 2008-2009. A review will be conducted at the end of that period. This new funding will allow inspectors to assist with the implementation and enforcement of these new liquor laws. They will provide a focus on increased support for liquor accords, working with police and other agencies to reduce alcohol-related crime. The funding will also be used to develop an education program for industry, local Government and the community in relation to these new laws.

I would now like to turn to the detail of the new liquor licensing regime. The Liquor Bill 2007 sets out six liquor licence categories. The first licence category is a hotel licence. Hotel licences will apply to premises where the primary purpose is the sale and supply of alcohol. Hotels will continue to be able to sell liquor for consumption on and off the licensed premises. Bars that do not operate gaming machines or sell takeaway alcohol will be able to obtain a special type of hotel licence, to be known as a "general bar" hotel licence. A general bar hotel licence will help to stimulate diversity, resulting in a greater variety of licensed venues, including small bars. However, there is a potential for bars of all sizes that focus on selling alcohol to have an impact on the local community through noise, antisocial behaviour and problems associated with intoxication and irresponsible service of alcohol. Therefore, all applications for a hotel licence - including the new general bar licence - will be subject to the new community impact Statement process, which I will refer to later.

The fee on grant for a general bar hotel licence will be less than the fee for a hotel licence that permits gaming machines and takeaway alcohol sales. It will not be possible for the prohibition on gaming machines and takeaway sales to be varied or

removed for a general bar hotel licence. Standard trading hours for hotels, including the new general bar licence, will be unchanged from the current liquor laws. Standard trading will be from 5.00 a.m. to midnight Monday to Saturday, and 10.00 a.m. to 10.00 p.m. on Sunday. Existing hotel trading restrictions between midnight Sunday and 5.00 a.m. Monday and on Good Friday and Christmas Day are also maintained. Hotels will be able to apply for extra trading hours via an extended trading authorisation, as they can under the current liquor laws. Certain existing requirements applying to hotels are modernised and carried across to the new bill.

The second category is a club licence. Club licences will apply to registered clubs. In order to obtain this type of liquor licence a club must meet the requirements of the new liquor laws as well as the Registered Clubs Act. Clubs will continue to be referred to as "registered clubs" in the liquor and club management laws. Existing clubs will continue to have access to unrestricted trading hours, as they do under the present law. Other registered club privileges and requirements will also be maintained for existing clubs. Newly licensed registered clubs will be subject to the standard trading period of 5.00 a.m. to midnight Monday to Saturday, and 10.00 a.m. to 10.00 p.m. on Sunday. These new clubs will be able to apply for extra trading hours via an extended trading authorisation.

The third licence category is an on-premises licence. This new category of licence will replace existing on-licences under the current liquor laws for restaurants, motels, theatres, universities, public halls, vessels, airports and section 74A licences. It will also replace the existing nightclub, caterers, Governor's and community liquor licences. On-premises licences will be very flexible. Sale of liquor will be permitted for consumption primarily on the premises. Individual licence conditions imposed by the authority will determine the type of business for an on-premises licence, along with alcohol sale, supply and consumption arrangements. The type of business for an on-premises licence will be specified when the licence is granted. An on-premises licence will not be issued where the sale, supply or consumption of alcohol is the primary business or activity carried out on the premises. However, there will be exceptions for some businesses and activities, such as airports and universities. Other exceptions can be prescribed.

The bill also specifies the kinds of businesses and premises for which an on-premises licence cannot be granted. Most on premises licences will be subject to the standard trading period of 5.00 a.m. to midnight Monday to Saturday, and 10.00 a.m. to 10.00 p.m. on Sunday. Applications for extended trading hours will be permitted. The sale of liquor under an on-premises licence will be with, or ancillary to, another product or service. These new provisions will replace the costly and restrictive dine-or-drink authority for licensed restaurants under the current liquor laws. The application process for this authorisation will be simple. There will be no fee payable other than a minor processing fee. Limits on the number of drinkers and other aspects of the approval will be determined on a case-by-case basis by the authority. However, the "primary purpose" requirement for restaurants and other on premises licences will ensure the sale or supply of liquor cannot become the primary purpose of the licensed premises.

The bill requires that a specific approval be obtained to sell liquor without meals rather than it being an automatic right. A specific approval allows regulators to consider the particular circumstances of a restaurant, and can assist with enforcement. The approval can also be more readily withdrawn if problems occur. Concerns have been raised about the potential for this bill to result in substantial changes to the mode of operation for existing restaurants. I point out that the authorisation provided for by clause 24(3) is not intended to allow restaurants and public entertainment venues to turn themselves into bars, or to alter the business or activity specified in their licences.

A restaurant with an on-premises licence will be required to continue to operate as a restaurant, which is defined in clause 4 of the bill. The Casino, Liquor and Gaming Control Authority will need to have this in mind when considering applications for an authorisation under clause 24(3).

Venues that wish to trade as bars will be required to obtain a general bar hotel licence, where the primary purpose is the sale of liquor. Under the Liquor Bill 2007 an on-premises licence will be available to operate live music and public entertainment venues where alcohol is provided to patrons with entertainment. This will replace the current nightclub and theatre licences, and will ensure that an appropriate licence is available for intimate venues providing live entertainment. These venues will be subject to local council requirements relating to the provision of public entertainment. Unnecessary and outdated restrictions on businesses such as accommodation venues, universities, and entertainment venues will be removed. The bill allows the authority to approve an authorisation for takeaway sales for an on-premises licence to ensure the flexibility provided by the existing Governor's licence is maintained. However, takeaway sales are intended for special types of facilities only, and in special circumstances.

The bill provides for regulations to limit the circumstances in which an authorisation can be approved. The Government will be monitoring this aspect closely to determine what future controls are necessary. On-premises licences will be required to have food available on the premises as a harm-minimisation measure. For caterers operating under an on-premises licence the existing "principal business" requirement has been removed. Caterers will no longer have to operate a separate catering company, thereby reducing costs. The requirement that alcohol may be served only with food has been also removed for caterers. However, food will still need to be available. Accommodation venues will benefit from simplified, flexible and modern licensing provisions that, among other things, do away with the need to have approval to operate a guest's bar. Accommodation venues will also be able to provide liquor with a takeaway meal or in a picnic basket meal to their accommodation guests so long as the volume on any one day does not exceed two litres.

The fourth licence category is a packaged liquor licence. Packaged liquor licences will apply to liquor stores selling takeaway liquor. Standard liquor store trading hours will be unchanged from the current liquor laws. Liquor stores will be able to apply for extra trading hours via an extended trading authorisation. The existing law preventing takeaway sales on Good Friday and Christmas Day will be maintained. Holders of packaged liquor licences will not be able to trade between midnight and 5.00 a.m. on any day. The fifth category of licence is a producer/wholesaler licence. Producer/wholesaler licences will apply to wine producers, brewers, distillers, and wholesalers. The licence allows wholesale sales to other liquor licensees. The licensing arrangements for wine producers will be modernised. This is a key feature that will directly assist regional tourism and regional economies.

Wine producers will be able to charge for tastings if desired, make cellar door sales, and operate multiple premises in a wine region under the one licence. Wine regions will be determined in consultation with the wine industry, and prescribed in the

regulations. An important reform for wine producers is that they will be able to conduct tastings and sell their wine directly to the public at wine shows and farmers' or producers' markets. A producers' market is a market at which farmers or primary producers display and sell their products directly to the public. It must be conducted in accordance with prescribed requirements, including a minimum number of stalls. Requirements will be determined in consultation with the industry.

Tastings and sales at a wine show can only occur where the wine show is held by a recognised wine, vineyard or industry association. Wine producers will also be able to obtain an authorisation to allow liquor consumption on the premises, such as in a restaurant or motel, or at an event such as Opera in the Vineyards. Wine producers will be able to sell blended wines so long as their wine contains a minimum percentage of product manufactured by the licensee. Wine producers will also be able to sell products that they make from types of fruit other than grapes that are grown on their premises. The existing 45-litre limit on cellar door sales will be abolished. A producer/wholesaler licence will also allow small-scale regional brewers and distillers to conduct tastings and sell directly to the public at their licensed premises. As this reform is also intended as a boost to regional tourism and economies, it will not apply to brewers and distillers in metropolitan areas.

The final category of licence is a limited licence. Limited licences will apply to sporting club and community functions, as well as significant regional and State events. They will replace function and special event licences under the current liquor laws. For no special event functions, a limited licence will only allow liquor sales that are ancillary to the purpose of the function. Functions will be required to be approved, and trading hours will be determined by the authority. The maximum number of functions under a limited licence will be 52 per year, or such other number as the authority considers appropriate. Existing special arrangements for surf club social functions and for race club functions under the current law will be maintained in the bill. Liquor sales under a limited licence will be for on-premises consumption only, except in the case of a trade fair or a special event. Special provisions will apply to a limited licence for a special event in recognition of the significant social and economic benefits of these events.

The Liquor Bill 2007 includes important reforms which assist regional tourism, small business, and live music. I will refer to some of those reforms now. The bill allows small bed and breakfast and farm-stay accommodation venues to supply alcohol without the need for a liquor licence. Controls will apply to bed and breakfasts so that alcohol is not supplied to minors, and responsible service of alcohol training is required. Sales can only be ancillary to the provision of accommodation or a meal. The cut off at which larger bed and breakfast venues need to apply for an on-premises liquor licence has been set at eight adult guests. This number reflects the size of most bed and breakfast businesses in New South Wales.

The new on-premises licence will also assist regional tourism and small business by allowing some regional tourism operators to obtain a suitable liquor licence for the first time. This licence will also greatly simplify arrangements for accommodation venues such as motels, which are a vital part of regional tourism. The wine producer reforms, along with the reforms for small-scale brewers and distillers, will also benefit regional tourism and small business. For the live music sector, the Liquor bill 2007 recognises order of occupancy in disturbance complaints, something the sector is very strongly in favour of, and which has been adopted in Queensland and South Australia. The live music, entertainment, tourism and hospitality industries are also specifically recognised in the objects of the Act. One of the most significant reforms for live music is the on-premises licence which can cater for live music venues. These industry reforms represent a tangible benefit for a range of businesses and communities throughout New South Wales. They will allow greater flexibility and choice for industry and consumers.

One area of the current liquor laws which is in need of reform is social impact assessments. These assessments have been criticised for being costly, time consuming, subjective, incomplete, and bewildering to residents and other stakeholders. A more efficient, less costly, and better targeted process is needed. The Liquor Bill 2007 therefore introduces a new community impact Statement. The object is to facilitate consideration by the authority of the impact that the granting of certain applications will have on the local community. It does this by providing a process in which the authority is made aware of the views of the local community, and the results of any discussions between the applicant and the local community about issues and concerns.

Community impact statements will gauge potential impacts, especially of new hotels, general bar hotel licences, clubs, bottle shops and other potentially high-impact licensed venues on local communities. Licensed venues, including restaurants and entertainment venues, seeking extended trading hours past midnight will also be subject to the new process. Community impact statements apply in different formats to low impact licence applications. However, the authority will require that a statement be prepared with any application detail that it considers necessary. Community impact statements will be required to be prepared before liquor licence applications are made. Statements will summarise the results of consultation by applicants with local councils, police, health, Aboriginal representatives, community organisations and the public. The consultation process will be set out in regulation. The detail will be developed in consultation with industry and other stakeholders. One aim of the new process will be to minimise time and costs. The Government will examine how community impact statements can be linked into the planning process to reduce duplication as much as possible. No fee will be payable to the licensing authority for a statement.

Stakeholders will have an opportunity to provide comment directly to the Casino, Liquor and Gaming Control Authority in response to a community impact statement lodged by an applicant. This will ensure statements accurately reflect the issues that were raised by those stakeholders. Applications will also need to be advertised so that anyone can make a submission directly to the authority. Advertising requirements will be developed with stakeholders so they are practical and provide reasonable notice. Applications will need to be advertised, and also the local council will need to be advised. To complement the community impact statement process an assessment will be prepared for the authority by the Director of Liquor and Gaming taking account of health, population, crime and other relevant data.

This assessment will be applied to all community impact statements. Applications where a community impact statement requires further detail will also be required at the authority's request. The new community impact statement process will relieve applicants from having to obtain large amounts of data and prepare complex and costly assessments, so they can focus on consultation with the local community. Bringing the assessment process in-house will facilitate a more objective process that can better meet the needs of the authority. The Government believes that this type of process is essential for high-impact liquor licence applications.

The bill requires that liquor regulators must be guided by harm minimisation principles. An informed decision requires input from local stakeholders. I have already mentioned that the Liquor Bill 2007 adopts a standard liquor trading period of 5.00 a.m.

to midnight Monday to Saturday, and 10.00 a.m. to 10.00 p.m. on Sundays. The bill provides for an extended trading authorisation, allowing trading outside of the standard period only upon application and subject to harm minimisation and neighbourhood disturbance controls. This also reflects the current liquor laws. Applications for trading past midnight will be subject to a community impact statement and can only be made for on premises liquor consumption. The bill also allows the Minister to approve extended trading for hotels and clubs for an event of regional, State, or national significance. This type of provision was subject to debate in a recent bill dealing with hotel trading during the 2007 Rugby World Cup.

The Government removed a similar provision from that bill during the debate. The provision has been included in this bill so that action can be taken quickly to provide trading for significant events as they arise. If necessary, trading hours can be reduced by regulation for specified classes of premises. Trading hours for a specific licensed venue can also be reduced by the Director of Liquor and Gaming as a result of noise and disturbance complaints, or by the authority as a result of disciplinary action. Existing restrictions that apply to hotel and takeaway trading on Good Friday and Christmas Day are maintained. No takeaway alcohol sales will be permitted on these days. The Liquor Bill 2007 also brings trading for some low-impact venues such as restaurants into line with trading of hotels.

I now turn to the enhanced regulatory controls over licensed premises which are a feature of these bills. Regulatory and disciplinary processes will be simplified and streamlined by moving to an administrative-based approach. A more immediate response to problems will be possible without the need for expensive and time-consuming legal processes in every case, while ensuring that due process is maintained. The circumstances in which action can be taken against licensees and others who do the wrong thing are being widened. Regulatory control over licensed venues will also be enhanced by providing new powers to the Director of Liquor and Gaming. The director will be able to impose conditions on licences, so long as the licensee has been given an opportunity to make submissions. The Liquor Bill 2007 provides for a process of review of the director's decision in these circumstances. Such a review will be determined by the authority at the request of a licensee. These new powers will be additional to the powers of the new Casino, Liquor and Gaming Control Authority.

Residents and councils will continue to be able to make disturbance complaints against licensed venues, as they can do now. The existing noise and disturbance complaint process is largely carried across into the Liquor Bill 2007. As already mentioned, a new feature is that order of occupancy between a venue and residents is recognised as an issue that can be considered. This provision has received strong support from the live music sector as a way of protecting long-established cultural venues from closure due to complaints by newly arrived residents. The provision is based on similar laws applying in other States. However, this new provision does not mean that complaints are not allowed or that licensed venues will be subject to lower standards.

All licensed venues are required to operate in a responsible manner, and action can still be taken under the noise complaints process if that is not the case. No matter who was first in an area, residents and businesses need to be reasonable and respect each other's needs. Under the Liquor Bill 2007, disturbance complaints will be determined by the Director of Liquor and Gaming. This is appropriate given the enforcement nature of these matters, which are about compliance with the requirements of the law for the responsible operation of licensed premises. Complainants and licensees will be able to request that the Casino, Liquor and Gaming Control Authority review a disturbance complaint decision of the director.

The Liquor Bill 2007 introduces two new offences which reinforce the need for consumers to behave responsibly, and will assist licensees to deal with troublesome patrons. The new offences prohibit intoxicated, violent or troublesome patrons who are refused entry or ejected from licensed venues from attempting to re-enter the venue for a 24-hour period. Such persons must also not remain in or re-enter the vicinity of the venue for six hours unless they have a reasonable excuse. A reasonable excuse will include where a person has reasonable fears for their safety, needs to obtain transport or resides in the vicinity of the premises. The maximum court-imposed penalty for these two new offences is \$5,500. These new provisions send a clear message to irresponsible drinkers about the standards of behaviour that are expected.

The provisions help to address problems where intoxicated persons who are ejected or refused entry remain outside a venue causing trouble. These people often attempt to re-enter the venue surreptitiously, and are an ongoing problem for licensees. To help tackle intoxication and under-age drinking, repeat offenders for certain key offences will be subject to higher penalties. The Liquor Bill 2007 includes a definition of "intoxicated" to assist licensees, staff and police in complying with and enforcing the law prohibiting entry into licensed venues by intoxicated persons, or the sale or supply of liquor to intoxicated persons. The definition has been taken from a draft developed by the Government in 2005, and which has subsequently been adopted in Victoria.

Under the Liquor Bill 2007, the Director of Liquor and Gaming will be able to issue written directions to a licensee, employee or agent concerning any matter relating to the licensed premises, including any conduct on the premises. This will enable the director to take swift action to deal with local neighbourhood problems associated with the sale and supply of liquor by a licensed venue. To ensure due process, these directions can be reviewed by the Casino, Liquor and Gaming Control Authority. There are circumstances where persons with alcohol-dependency problems may wish, and should be capable of requesting, that they be excluded from specific licensed venues. Examples include persons released from custody who, as part of their rehabilitation program, are required to abstain from alcohol use.

The Liquor Bill 2007, therefore, contains provisions specifically allowing licensed venues to enter into a self-exclusion agreement and thereby refuse entry or eject persons who have voluntarily requested to be refused entry and service of alcohol. These provisions build on longstanding provisions allowing licensed venues to refuse entry to intoxicated or violent persons. The bill also allows self-exclusion agreements to apply to licensed venues that are members of a liquor accord. This will enable a single request to be made by a person that will apply to multiple premises in an area. I emphasise that self-exclusion agreements must be requested by the person to whom the agreement will apply. An agreement cannot be forced upon a person. The Liquor Bill 2007 will allow the new authority to issue an order banning a person from entering or remaining on licensed premises. Such an order can be made in circumstances where the person has been repeatedly intoxicated, violent, quarrelsome or disorderly on or in the immediate vicinity of licensed premises. Such orders can be sought by the director, the police, or a licensee who is part of a liquor accord. The authority will be subject to the requirements of the Anti-Discrimination Act in making such an order. The Liquor Bill 2007 carries across existing laws allowing for closure orders to be made where there are significant concerns about threats to public safety.

Finetuning of these provisions will see such orders, which can be requested by the Director of Liquor and Gaming or the police, able to be made by the new authority, as well as by an authorised officer. Lockouts, curfews or restricted entry policies have been voluntarily implemented in certain locations to address late night problems associated with the movement of persons between licensed venues and patrons congregating outside licensed venues. These lockouts prevent patrons from entering licensed premises after a certain hour, although patrons already inside the premises can remain until normal closing time. However, securing agreement from all late trading licensed venues in an area to voluntarily participate can be difficult and takes time. There are circumstances where it would be preferable to allow the Director of Liquor and Gaming to order licensed venues to participate in a lockout.

The Victorian Liquor Control Act specifically allows the Director of Liquor Licensing to make a late hour entry declaration for an area or locality. The Liquor Bill 2007 includes similar provisions. This will allow the Director of Liquor and Gaming to make a late hour entry declaration for an area, subject to due process, including consultation with licensees and the local council. Decisions can be reviewed by the new authority. The existing Liquor Act includes provisions allowing undesirable liquor products and promotions to be banned, but only where those products and promotions are attractive to minors. Undesirable products must be banned by regulation, whereas the Director of Liquor and Gaming can take action against undesirable promotions. These existing provisions are being carried forward in the Liquor Bill 2007.

However, they are also being expanded in the bill to allow action to be taken against products in circumstances such as where the name, design or packaging is indecent, offensive, or encourages irresponsible consumption. A new feature of the bill is that the director will now also be able to take action against products. However, the director will be limited to issuing orders only to individual licensees, and only where the premises are situated in an area or locality where there are significant concerns regarding intoxication or under-age or irresponsible drinking. Examples of products where action could be taken by the director under these new provisions include high alcohol cocktails created on licensed premises that encourage irresponsible, rapid or excessive consumption.

The director must provide the licensee with a reasonable opportunity to make submissions in relation to the proposed restriction or prohibition, and must take those submissions into consideration. The bill also allows action to be taken against undesirable liquor promotions. The circumstances where action can be taken against undesirable promotions are being expanded to include promotions that can result in rapid alcohol consumption and intoxication. Some aspects of these expanded provisions have been taken from a code of practice developed by the liquor industry in New South Wales; others have been taken from the Queensland and Victorian liquor laws. They will allow action to be taken not only against products and promotions targeted at minors but also against irresponsible products and promotions that cause harm to adults, including products containing excessive levels of alcohol.

The existing Liquor Act contains regulation-making powers to restrict or prohibit the conduct of promotions or other activities, including discounting or supply of liquor free of charge, that could result in misuse or abuse of liquor, such as binge drinking or excessive consumption. There are concerns that substantial liquor discounts could be a factor in encouraging binge drinking or excessive consumption. The Liquor Bill 2007, therefore, includes a regulation-making power which can prescribe circumstances in which the Director of Liquor and Gaming can require responsible consumption of alcohol messages to accompany promotions that involve liquor discounts. The form of such messages will be a matter for the director. The liquor laws in some other States and Territories contain provisions allowing communities to apply for restricted or dry areas to help ease alcohol-related problems.

Controls that apply can range from restrictions over the sale and availability of certain types of alcohol through to complete bans on alcohol in a specific community. These provisions have generally been introduced to assist communities with large indigenous populations, although they have been used in other communities. In other jurisdictions the size of a restricted area can vary from a part or whole town through to extended areas in the case of remote indigenous community locations. The management of alcohol-related problems in indigenous communities needs to be driven by those communities, so they can determine and implement measures they feel will best meet their needs. There must also be interagency co-operation, co-ordination and consultation at the local level.

The Liquor Bill 2007 will assist in this process by providing for restricted alcohol areas to be declared by regulation in particular circumstances. Restrictions imposed in such areas could include restrictions on the trading hours for licensed premises, the kinds of liquor that may be sold or supplied, and the way in which liquor is sold or supplied. Importantly, this new measure can restrict the sale, supply, possession or consumption of liquor on any premises, whether or not those premises are licensed premises. A restricted alcohol area can only be declared by regulation where the responsible Minister is satisfied that it is in the public interest, and has the support of the majority of the community that is likely to be affected. Consultation will be required with the Commissioner of Police, local councils, prescribed persons, and any other persons the Minister considers appropriate, including representatives of the community that is likely to be affected.

Offences in the bill relating to the sale of liquor without a licence, and sale contrary to a licence, will apply in restricted alcohol areas. Other offences can be prescribed in the regulations. Much of the process for establishing a restricted alcohol area will be prescribed. This will facilitate extensive consultation with all stakeholders before that process is finalised. The Government's view is that the process must be inclusive and transparent if it is to work properly. There will be wide-ranging consultation with all stakeholders on the development of the regulations.

One of the most important issues sought to be addressed through the liquor laws is under-age drinking. The law needs to send a strong message to the community about the importance of protecting our young people from the potential harms of alcohol. Significant penalties should apply to those who deliberately put the wellbeing of children at risk. The law should also be very clear for parents and those responsible for the care of children. Concerns have been raised about the complexity of the existing under-age drinking laws. Those laws are very difficult for parents and minors to understand. Therefore, one of the most important outcomes of the Liquor Bill 2007 will be to greatly simplify the liquor laws, and the Government has focused particularly on the under-age drinking laws. However, the Liquor Bill 2007 does not alter what is currently legal and what is currently illegal in relation to under-age drinking.

Selling liquor to a minor remains an offence for any person, as does supplying liquor to a minor on licensed premises. The Liquor Bill 2007 reflects the outcome of the current law, which effectively allows parents, guardians, and persons authorised by a parent or guardian, to supply liquor to a minor outside of licensed premises. It will remain an offence for all other persons to supply liquor to a minor outside of licensed premises. In fact, the under-age drinking laws are being strengthened in the Liquor Bill 2007 through increased penalties for repeat offenders, and for adults who send a minor to licensed premises to obtain liquor. The Liquor Bill 2007 also provides that where an adult seeks to rely upon the fact that he or she is a parent or guardian or was authorised by a parent or guardian to supply liquor to a minor, the burden of proof will fall on the parent or guardian or person so authorised.

This will result in authorised persons needing to be sure they could prove that they have authorisation from a parent or guardian to supply liquor to an under-age person before doing so. It will make the job of enforcing the under-age drinking laws easier for police and inspectors. The Liquor Bill 2007 provides enhanced support for liquor accords. Liquor accords are a cornerstone of the Government's liquor harm minimisation framework. They are also an effective means of addressing local issues in an environment of respect and responsibility. Changes associated with the new regulatory framework allow accords to approach the new authority to have action taken where recalcitrant venues undermine the success of liquor accords. This is supported by provisions that can require compliance with accords arising from a disturbance complaint.

Who can be a party to an accord is more clearly outlined in the law. The Liquor Bill 2007 also makes it clear that accords can include certain terms to eliminate doubts as to what accords can do. The Liquor Bill 2007 will enable the Director of Liquor and Gaming to order that a licensee contribute to costs of implementing a liquor accord. This power will be used where accords first collectively agree to impose membership fees or seek some other financial contribution from accord members to promote or give effect to the accord. It is fair that where a licensee irrespective of whether he or she is a member of the accord gains some benefit from local accord activities, that licensee should make a contribution to the cost of those activities where other accord members are doing so. Decisions of the director under this provision will be reviewable by the Casino, Liquor and Gaming Control Authority.

The Liquor Bill 2007 and the Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Bill 2007 include a new disciplinary process for liquor licences, registered clubs, and gaming-related licences. This new process will facilitate disciplinary action in much the same circumstances as the current liquor, registered clubs, and gaming machines laws. The changes that have been made are necessary given the move from the courts to an administrative-based disciplinary process. The new process will reduce time and costs for all parties. It will facilitate more efficient action against licensees who do not comply with the law, or operate their business in a manner that is against the public interest. The disciplinary provisions in the bills are a key element of these reforms. They will help to ensure the increased liquor licensing opportunities and the flexibility provided by these reforms are not abused by allowing timely action to address problems. However, it is vital that due process is maintained. The bills provide for licensees to be given a fair opportunity to respond to concerns raised by the Director of Liquor and Gaming or the police before action is taken which could result in substantial penalties or, ultimately, suspension or cancellation of a liquor licence. The bills provide that non-casino disciplinary decisions made by the authority will be reviewable by the Administrative Decisions Tribunal. The Liquor Bill 2007 contains savings and transitional provisions that will largely preserve conditions and trading entitlements for existing liquor licensees and clubs. Transitional and savings provisions have been developed to ensure there is the least impact on existing licensed venues as possible. Current trading hours for licensees are not reduced.

Matters that are before the Licensing Court or the Liquor Administration Board when the new laws commence will continue to be dealt with by the court or the board. The transitional provisions provide for a period of time to enable the Liquor Administration Board to deal with existing matters. The period will be prescribed in the liquor regulation. The Liquor Bill 2007 exempts liquor sales to residents of a retirement village and their guests at gatherings held in the village that are not organised or conducted by the village operator. This amendment has been requested by the Retirement Village Residents Association. Elderly retirement village residents will not need to apply for a licence to have a few drinks at their regular social functions. The Liquor Bill 2007 also exempts auctioneers and commuter aircraft operators from having to obtain a liquor licence.

International cruise ships will benefit from an exemption given the difficulties of applying the liquor laws to those vessels, which are usually located within New South Wales waters for a very short time. This exemption will not permit sales to minors, and other requirements can be prescribed. Existing surf club licensing privileges are retained in the Liquor Bill 2007. Surf clubs that wish to hire out their club premises for private functions will be able to apply for an on-premises licence. This will assist surf clubs to make full use of their premises for fundraising purposes. These extra privileges will not override planning and other laws governing the use of surf club premises. They do not allow the operation of public bars.

In addition to the amendments I have already highlighted, the Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Bill 2007 contains a range of consequential amendments to the Casino Control Act, the Registered Clubs Act, the Gaming Machines Act, and certain other relevant Acts. The Government appreciates that the regulations will be important to the operation of the new liquor licensing regime. While draft regulations have been tabled today, the formal regulations will not be finalised until the Liquor Reform Bill 2007 and cognate bills are considered by this Parliament. It is a general practice of law making that regulations are developed as part of the implementation of a new Act. The new liquor regulation will deal with similar matters to the existing regulation. Although they are important matters, they are generally procedural and administrative in nature. As the new regulation will be a principle statutory rule, the Subordinate Legislation Act requires that it be developed in consultation with stakeholders, and be subject to the full regulatory impact Statement process. There will also need to be consultation with relevant government agencies before it is finalised. I commend the bills to the House.

The Hon. TREVOR KHAN [3.44 p.m.]: I lead for the Opposition in speaking to the Liquor Bill 2007 and in doing so I raise two historical quirks. First, today is the anniversary of the ratification of the twenty-first amendment of the Constitution of the United States of America, which removed prohibition in the United States. So in that sense it is interesting that these bills are being debated today. The second is on a more personal level: My grandfather, who was an alcoholic, died whilst drunk on Gardeners Road, Kingsford. As a result of that

tragic event, liquor laws and their consequences for members of the public mean a great deal to me and my family. It is in that context that I wish to read an email I received from a lady about a week ago. It states:

Greetings,

I am emailing you in regard to:

1. The bill.
2. The debate to be held prior to the rise of Parliament in December 2007.

I am emailing all State MPs as you will all be involved in the vote. I am asking you to make sure that liquor is not more readily available to the public than it already is, eg, in cafes. I am wondering how on earth our State Government could even consider the liquor amendment (small bars and restaurants) bill 2007—

That is the term that she uses—

in the light of all the accidents and deaths caused on our roads because of alcohol and because of all the family stress, violence and breakdowns caused by alcohol. I shake my head that our State Government could even discuss making consumption of alcohol even more readily available to members of the public, especially to people who have most likely driven their cars to the café. I have heard that the move is to allow small bars and dining areas to rejuvenate areas in the lanes of the inner city to allow smaller venues to trade. This gets away from the large drinking barn like monopoly of big pub industries. It directs drinking to the more balances and European style premises that can enhance the cultural values of little unused lanes, etc. in the inner city in particular. Low consumption in more cultural ambiance would assist in the control of binge drinking and associated alcohol fuelled violence. I am sorry but I fail to see how any of this makes any different to my concerns raised above. If you intend to vote for this proposal, can you, in all conscience, offer me an explanation please?

I offered an explanation and indicated that I would be voting for the bill. I clearly put on the record now that the Opposition does not oppose these bills. This is the long-awaited omnibus rewrite of the Liquor Act 1982 that follows a white paper and a draft bill two years ago. Subsequently, after the inactivity of the former Minister and the intervention of a State election, this new bill, which is substantially different from the first draft, is presented. The proposed principal objects of the bill are manifold: first, to combine the liquor provisions of the Liquor Act and the Registered Clubs Act, while leaving the Registered Clubs Act to cover matters of clubs governance; second, to abolish the Liquor Administration Board and replace it with the new regulatory authority, the Casino, Liquor and Gaming Control Authority, which would take the place of the existing Casino Control Authority; third, to provide for six categories, as opposed to the current 21, of liquor licences, including a new regime of licensing for small bars and restaurants without poker machines; and, finally, for sundry other purposes such as reform of the planning process, new offences pertaining to liquor, abolishing social impact assessments 1 and 2 and replacing them with community impact statements, reform of wine producer licences and new arrangements for surf clubs and other non-profit sports clubs. I have a continuing membership and interest in the Tamworth Hockey Club, which has received great support not only from the general community but also from the Hon. Christine Robertson.

A hotel licence will apply to premises where the primary purpose is the sale and supply of alcohol. A variety of hotels and bars will be subject to such a licence. However, premises that do not provide gaming or sell takeaway liquor will be able to obtain a special type of hotel licence. Standing trading hours will apply: 5.00 a.m. to midnight, Monday to Saturday; and 10.00 a.m. to 10.00 p.m. on Sunday. Extended trading hours will be subject to the completion of a community impact statement. No trading will occur on Good Friday and Christmas Day, and that is to be applauded.

The second category is the club licence, which will apply to registered clubs. Existing clubs will retain unrestricted trading hours and all other privileges. Newly licensed registered clubs will be subject to community impact statements and to standard trading hour provisions. Extended trading hours will be subject to a community impact statement. The third category is the packaged liquor licence, which will apply to liquor stores selling takeaway liquor. New licences will be subject to community impact statements. Standard trading hours will apply, and extensions will require a community impact statement. Once again, no sales will be allowed on Good Friday and Christmas Day. The fourth category is the on-premises licence, which will replace existing on-licences for restaurants, motels, theatres, universities, nightclubs, caterers, Governor's licences, vessels and airports.

Following a community impact statement, applicants will be individually assessed by the Casino, Liquor and Gaming Control Authority, and licensing conditions will cover aspects of sales, consumption, responsible service of alcohol and the like. This licence is not for businesses whose primary purpose is the sale of liquor. Standard trading hours will apply and extensions will be permitted. The sale of liquor will be ancillary to another purpose, such as the sale of food in restaurants, but liquor sales without meals can be approved by the authority. An on-premises licence will be available to operate live music and entertainment where alcohol is provided. Clearly, that factor has received considerable support from sections of the community. This form of

licence will replace current nightclub and theatre licences, and restrictions applying to those licences will be removed. High impact licence applications will be subject to community impact statements.

The fifth category is the packaged producer-wholesaler licence, which will apply to wine producers, brewers, distillers and wholesalers. It will allow wholesale sales to other licensees. Wine producers will be allowed to conduct chargeable tastings, cellar door sales, and direct sales to the public at wine shows and farmers markets; operate multiple premises in an area and provide consumption on premises as part of a restaurant, motel, event or the like. Wine producers will be able to sell blended wine with a minimum percentage of their wine probably likely to be 75 per cent to 80 per cent. The existing 45-litre limit on cellar door sales will be abolished.

The final category is the limited licence, which will apply to sporting clubs and community functions, as well as significant State and regional events. Existing special arrangements for surf clubs will be maintained, including selling alcohol at functions. Surf clubs will be able to apply for an on-premises licence to sell liquor at private functions on club premises and be able to hire out their premises subject to planning and local government requirements. The on-premises licence will also cater for the traditional coldies social drinks, post games and the like. Clubs that hire out their premises will continue to conduct coldies through the limited licence, subject to the responsible service of alcohol provisions and neighbourhood amenity provisions.

The following matters should be noted. The Casino, Liquor and Gaming Control Authority will be responsible for applications for liquor licences, extended trading hours, penalties and licence suspensions and cancellations. Appeals on non-casino matters will be dealt with by the Administrative Decisions Tribunal. The Director of Liquor and Gaming will determine noise and disturbance complaints, and impose licence conditions. He can also declare lockouts and curfews. Decisions can be reviewed by the authority. Each application will need to be determined for the responsible service of alcohol conditions. Toilet requirements, patron numbers, et cetera, will be determined by local government through the development application process. The current restaurant drink-dining authority will be abolished. That is the old 70-30 rule. The removal of that arcane condition can only be welcomed by all. Liquor accords will access the authority to back up their operations. There will be provisions for continuing self-exclusion programs, however well or otherwise they work, and restricted areas. Such areas will not be limited to indigenous communities.

There will be new offences to reduce antisocial behaviour, supported by on-the-spot fines of \$550, with maximum court penalties of \$5,500. Maximum fines for supplying minors will double for repeat offenders to \$11,000 and/or 12 months in jail. Fines for minors caught in licensed premises or purchasing alcohol will double to \$2,200. There will be expanded powers to ban irresponsible liquor products and promotions. Applications for special event extended trading hours presently requiring legislation will be dealt with by an application, with a community impact statement, to the authority. For small venues, the issues of smoking, the responsible service of alcohol and the like will provide problems, especially where street tables are permitted. The bills are voluminous. They have been presented on what can only be described as short notice. Not available to us are the regulations that will follow from these Acts. As the Opposition spokesman on these matters, George Souris, said in the other place, the devil will be in the detail. As I said, the Opposition does not oppose the bills.

The Hon. DON HARWIN [3.56 p.m.]: I do not propose to go through the bills in detail. In leading for the Opposition, my colleague the Hon. Trevor Khan has done that with great skill. I will simply make some brief remarks about representations that have been made to me. First, I pay tribute to my friend and colleague the Hon. George Souris, member for Upper Hunter, who has done an excellent job analysing this complex legislation, which has gone through the lower House and is before us now. The matter of liquor licensing is complicated and the changes proposed in these bills have generated a considerable range of responses from the community and affected stakeholders. I shall put on the record concerns raised by Commodore Gruzman of the Royal Australian Naval Sailing Association.

The proposed reforms enshrine concessions currently extended to surf life saving clubs in recognition of the important role they play in the community and their reliance upon fundraising activities for revenue. I am sure that no member of this House would quibble with that. The Royal Australian Naval Sailing Association suggests that the same rights and conditions enjoyed by surf life saving clubs under the principle Act should be extended to sailing and yachting clubs. Commodore Gruzman noted that, like surf life saving clubs, sailing and yachting clubs:

... are largely dependent on social functions to generate revenue to fund safety and rescue facilities, along with facilities to members. Many smaller sailing clubs are not registered clubs, do not sell takeaway liquor and do not have any gaming machines to fund necessary rescue boats, portable defibrillators and other ancillary rescue equipment.

The Royal Australian Naval Sailing Association is a not-for-profit organisation operated on an entirely voluntary basis. It organises sailing events on the harbour throughout the year, several of which involve members of Sailability, an organisation for sailors with disabilities. The club provides start boats and rescue facilities. Like many such sailing and yachting organisations, the association's premises are leased from the local council, and the terms of the lease prohibit the club from seeking a certificate of registration under the Registered Clubs Act 1976.

The only licence that the club is permitted to hold is an on-premises functions licence, which is limited to 26 functions per annum. Under the reforms proposed in the bill the club would need to lodge an application with the proposed Casino Liquor and Gaming Control Authority in order to increase the number of functions permissible under the terms of the proposed equivalent limited licence. Given that surf life saving clubs and sailing and yachting clubs are organisations that facilitate sporting and recreational activities and provide rescue facilities on a not-for-profit basis through fundraising, they certainly seem to have a case and an argument for similar treatment under the Act. I believe that is worth looking at.

Commodore Gruzman has suggested that sailing and yachting clubs be granted either the same rights and conditions as surf life saving clubs, or a limited licence permitting at least two functions per week, or an on-premises licence to sell liquor and hold private functions at the club premises to cater for the club's own functions. I request the Minister to consider the concerns that have been raised by the sailing association and the recommendations it has made when drafting the regulations over the coming months.

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

QUESTIONS WITHOUT NOTICE

OCCUPATIONAL HEALTH AND SAFETY LEGISLATION

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Industrial Relations. Given the Premier's commitment in August that a balanced, as he said, package of reforms to occupational health and safety would be legislated during the current session of Parliament, will the Minister inform the House why he has fundamentally failed to introduce that legislation?

The Hon. Michael Costa: Is fundamentally failed different from failed?

The Hon. JOHN DELLA BOSCA: I take up the Treasurer's point, is fundamentally failing different from plain old failing?

The Hon. Michael Gallacher: That's funny.

The Hon. JOHN DELLA BOSCA: No, I do not think it is funny at all. The occupational health and safety laws in this State are very important to working families.

The Hon. Duncan Gay: What is your definition of a working family?

The Hon. JOHN DELLA BOSCA: I should not have to explain that to the Deputy Leader of the Opposition.

The Hon. Duncan Gay: Who isn't a working family?

The Hon. JOHN DELLA BOSCA: That is another way of putting the same question. I am happy to say, for the sake of definition or issues for the Deputy Leader of the Opposition, that it is very important to everybody. We have a very successful set of arrangements. What has been set in place in New South Wales is a set of arrangements for occupational health and safety that have shown consistent reductions in workplace injuries since they were introduced. They have shown an expansion in innovative approaches to safety by employers. Many employers use occupational health and safety as a matter of not only reducing their workers compensation exposure and reducing the risk of accidents to their employees but also a way of leverage in productive managerial innovations. The Government has put in place a very successful set of arrangements in New South Wales. They are so successful that in the course of reviewing the arrangements we have improved them significantly. We have come up with a number of significant improvements.

The Hon. Michael Gallacher: Are you saying that you will not review the legislation?

The Hon. JOHN DELLA BOSCA: I am happy to introduce legislation at any time.

The Hon. Michael Gallacher: Well, why don't you?

The Hon. JOHN DELLA BOSCA: As the Leader of the Opposition and the Deputy Leader of the Opposition we know there is no urgency here because the framework we have is working very well. Some suggestions for a modest set of improvements are on the table and will be put in place. A review has been conducted by Mr Paul Stein, which ensured that all arrangements are robust, will sustain us for the next five years and will continue to get improvements in occupational health and safety outcomes. To put it in very simple terms, the occupational health and safety framework for New South Wales is not broken.

The Hon. Michael Gallacher: It is a disaster.

The Hon. JOHN DELLA BOSCA: Why is it a disaster? More people are living and breathing today than would have been under the draconian arrangements the Coalition preferred. It is working very well, because people are alive today who would not have been under the regime the Coalition would have put in place if it had half a chance.

INTERNATIONAL STUDENT ASSESSMENT PROGRAM 2006

The Hon. PENNY SHARPE: My question is addressed to the Minister for Education and Training. Will the Minister inform the House about the New South Wales results in the 2006 Program for International Student Assessment?

The Hon. JOHN DELLA BOSCA: The 2006 Program for International Student Assessment [PISA] study conducted by the Organisation for Economic Cooperation and Development [OECD] assessed the ability of almost 400,000 15-year-old students from 57 countries. It examined their reading, mathematics and scientific literacy. More than 3,000 New South Wales students from 80 schools took part, two-thirds of them from government schools. The performance of New South Wales students was once again among the best in the world in all three skill areas. New South Wales students were eight score points above the Australian average for scientific literacy, and 35 points above the OECD average. New South Wales students were six score points above the Australian average for reading literacy and 27 points above the OECD average.

In mathematical literacy, New South Wales students were again above the Australian average and 25 points above the OECD average. The Program for International Student Assessment assesses the ability of students to use their knowledge and skills to meet real-life challenges rather than just looking at how they have mastered a specific school curriculum. In 2006, the assessment test had a specific focus on scientific literacy. Internationally only students in Finland and Hong Kong performed better than New South Wales students in scientific literacy. Although nations like Germany and Switzerland are noted for their scientific achievements and expertise, New South Wales students outperformed them.

The Hon. Melinda Pavey: What about maths?

The Hon. JOHN DELLA BOSCA: I will say that again for the Hon. Melinda Pavey, who maybe has a literacy problem. Across all three skills areas, New South Wales students out-performed their counterparts from the United Kingdom, Germany and Sweden. In mathematics, New South Wales student results also surpassed those from Ireland, the United States of America and France. Our strong results in the Program for International Student Assessment are mirrored by excellent results in the 2007 State-based literacy and numeracy tests. The 2007 Basic Skills Test showed primary school literacy, numeracy and writing standards at a record high. Our years 7 and 8 students achieved excellent results in the English Language and Literacy Assessment, known as ELLA, with the number of students in the lowest performance band at a record low and the percentage in the high achievement level for overall literacy the highest ever achieved.

The PRESIDENT: Order! The Hon. Melinda Pavey will cease interjecting.

The Hon. JOHN DELLA BOSCA: This year's Secondary Numeracy Assessment Program, known as the SNAP test, showed New South Wales student numeracy levels at their highest since 2004. These results demonstrate the worth of our State Literacy Plan and State Numeracy Plan and the success of the rigorous New

South Wales curriculum. While the association's results are good, some areas require improvement to equip more students with the essential foundations for lifelong success. Aboriginal student results are lower, while the reading literacy performance of boys has declined. The Iemma Government is working hard to address these issues. We are investing a record \$11.2 billion in education and training this year and we have allocated \$616 million over the next four years to further improve student literacy and numeracy levels.

We are employing another 200 reading recovery teachers. We are providing targeted professional development for kindergarten to year 2 teachers along with a specialist teacher in every school to coordinate literacy and numeracy teaching. We are increasing the number of selective school places to encourage even higher levels of achievement from our academically gifted students. In this term of government, every school will have a connected classroom with interactive whiteboard and videoconferencing facilities. The Government is providing a transition coordinator for every high school to help students successfully make the move from primary to high school. The Government is also investing more than \$67 million over the next four years in programs to improve Aboriginal student results. We have also set ambitious targets in the State Plan to increase the level of attainment in education and training for all students. We are delivering on our commitment to improve literacy and numeracy, lift school attainment and provide young people with the practical training they need to build a career.

VICTORIA ROAD UPGRADE

The Hon. DUNCAN GAY: My question without notice is directed to the Minister for Roads. Is the Minister aware that the cost of the Victoria Road upgrade, which he admitted on 3 December 2007 will now be \$150 million, represents a 50 per cent increase on his pre-election promise and pushes that project over budget by \$50 million? Will the Minister now apologise to the taxpayers of New South Wales for the blow-out in costs on this project? Will he apologise also to the frustrated commuters, particular those from Sydney's innerwest, for the delays in a project that in nine months after the election is now running 12 months late?

The Hon. ERIC ROOZENDAAL: Mr President—

The Hon. Duncan Gay: Don't try to weasel out. We don't want any weasel words.

The PRESIDENT: Order! The Deputy Leader of the Opposition has completed his question.

The Hon. ERIC ROOZENDAAL: Enhancing the capacity and relieving congestion on key roads corridors is a major challenge facing Sydney. Victoria Road is one of Sydney's busiest corridors. I am advised that between 75,000 and 80,000 vehicles cross the Iron Cove Bridge every day, which is why the Government is committed to upgrading Victoria Road and duplicating the Iron Cove Bridge. This is not just about cars; it is also about a key strategic bus corridor with approximately 200,000 bus passengers travelling on Victoria Road each week. Dedicated bus lanes, new bus stops and bus overtaking bays will mean a faster, more reliable trip for commuters.

I am advised that the scope of this \$150 million program of works includes a new city-bound peak bus lane, a tidal flow traffic scheme, and pedestrian and cycling facilities connected to the popular Bay Run. I am advised that the project is bigger in scope than originally announced, with a number of new requirements factored in, including a dedicated pedestrian and cycleway linking into the Bay Run. These facilities will provide benefits for the local community in addition to the public transport and traffic benefits. I am advised that more extensive utility relocations are required than originally thought, and construction cost escalations have been factored in.

Following detailed investigations, including underwater and geotechnical surveys, the preliminary cost estimate was revised to approximately \$150 million. As a matter of common sense, a contingency amount is built into the overall cost. I am advised that the project is scheduled for completion in 2010. The Iemma Labor Government remains committed to this important project. We are getting on with the job of delivering, unlike members of the Opposition who do nothing other than complain, whinge and interject because they have nothing better to do. We understand the importance of Victoria Road and that is why we are committed to duplicating the Iron Cove Bridge.

We have been listening to local communities with the introduction of a pedestrian cycleway to complete the Bay Run, which will improve facilities for local communities. The community can comment on two options that have been put on display. I urge those members of the community who are interested in these

options to make a comment either by way of letter or through the Internet. They should look at the two different options—an eastern option and a western option—that have been put on display. This important project is part of the Iemma Labor Government's commitment to upgrade the road network to ensure that Sydneysiders are able to get around Sydney.

RETAIL CIGARETTE DISPLAYS

Reverend the Hon. FRED NILE: I ask the Attorney General, representing the Minister for Health, a question without notice. Did the joint parliamentary committee into smoking recommend restrictions on the display of cigarette packets in shopping centres? Did Professor Melanie Wakefield, in a world-first study published in the journal *Addiction*, find that more than one-third of smokers who were trying to quit smoking were tempted to buy cigarettes as a direct result of seeing them displayed, and that 60 per cent gave in to the urge? Did this report confirm that the tobacco industry's increasing reliance on cigarette displays in shopping centres was a marketing ploy to create highly visible maximum exposure to cigarette packet displays? Will the Government support the bill introduced by the Christian Democratic Party to prohibit the public display of cigarette packets in shopping and retail centres?

The Hon. JOHN HATZISTERGOS: I will refer the member's question to the Minister for Health, obtain an answer and advise the House in due course.

WEED AND PEST CONTROL

The Hon. MICHAEL VEITCH: My question without notice is addressed to the Minister for Lands. Will the Minister inform the House what the Government is doing to help protect our native wildlife and to control the spread of weeds and pests on Crown land?

The Hon. TONY KELLY: One of the key principles embedded in the Crown Lands Act is environmental protection. As such, it is one of our prime duties to protect native wildlife and vegetation. That is why earlier today I was pleased to announce \$875,000 for weed and pest control programs on Crown land this financial year. This funding supports the State Plan's Environment for a Living strategy for better outcomes for native vegetation and biodiversity. In conjunction with the Department of Primary Industries and the Noxious Weed Advisory Committee, some \$585,000 for weeds and \$190,000 for pests has been allocated this year. On top of that, \$100,000 has been allocated on a contingency basis for weed or pest infestations that crop up during the course of the year as part of a good neighbour approach to land management.

Weed infestation is one of the greatest challenges to our public land. Over the past three years the Iemma Government has supported some 350 projects on Crown land across the State. This year, a total of 129 projects will be funded and carried out by councils, weeds county councils, trust boards, government agencies and community groups. The usual suspects will be targeted, such as weeds of national significance like bitou bush, serrated tussock, blackberry, alligator weed, salvinia, lantana, gorse, bridal creeper and willows. Regional weed action plans will be supported for species such as groundsel bush, giant Parramatta grass, pampas grass, African lovegrass, spiny burr grass, tiger pear, scotch broom, St John's wort, fireweed and African boxthorn.

The Hon. Duncan Gay: Will you be part of a Watkins government?

The PRESIDENT: Order! The Deputy Leader of the Opposition will cease interjecting.

The Hon. Duncan Gay: I smell weasel.

The PRESIDENT: Order! I call the Deputy Leader of the Opposition to order for the first time.

The Hon. TONY KELLY: The war against feral species continues unabated. Specific pest animal control programs will be carried out under the management of the Department of Lands. Over the next year rural lands protection boards, trusts, local councils, government agencies and community groups will complete 47 projects at a cost of \$190,000. Programs will be integrated with new and existing natural resource management plans. These include the fox threat abatement plan, regional wild dog plans, cooperative rabbit control schemes, and programs to control emerging pests on public lands such as pigs, goats, cane toads and feral cats. These programs will also protect and enhance communities of threatened native species on Crown land, including the pied oystercatcher, hooded plover, little tern, beach stone curlew, bush stone curlew and the brush-tailed rock wallaby.

Looking after our environment is extremely important and a major guiding principle of Crown land management. Through its ongoing support of weed and pest funding programs, the Iemma Government is continuing its important stewardship role over Crown land, not just for today but also for future generations. I take this opportunity to thank all volunteers, councils and other government agencies for their cooperation and assistance in administering these programs. Once again I emphasise that the Iemma Government is committed to sustainable management on Crown land. The weed and pest funding that I have outlined will ensure that we deliver on this commitment for another year.

VEHICLE TRAFFIC REDUCTION

SYDNEY PUBLIC SPACES AND PUBLIC LIFE STUDY

Ms LEE RHIANNON: I direct my question to the Minister for Roads. As the Minister for Roads will he meet with Professor Jan Gehl when he undertakes his public spaces and public life study of Sydney in coming months, considering a major purpose of his study is to remove cars from the city and make it more pedestrian friendly? Will the Minister seek a briefing from the professor on the findings of his study and work with the city of Sydney on any plan to reduce vehicle traffic? If this study suggests removing the Cahill Expressway, will the Minister give such a proposal serious consideration?

The Hon. ERIC ROOZENDAAL: I receive many requests for meetings and I receive lots of invitation to various events to meet various people. I judge each invitation on its merits and I will do that in future if need be.

INTEREST RATES

The Hon. GREG PEARCE: I direct my question to the Treasurer. Does he stand by his comments reported last December that the Federal Government has the power to intervene with Reserve Bank decisions and that the Federal Government could override the Reserve Bank to prevent unwanted interest rate rises? If so, has he reminded Mr Rudd or Mr Swan? If not, why did he make such comments in the first place?

The Hon. MICHAEL COSTA: It is a statement of fact that the Federal Government has to renew its relationship with the Reserve Bank periodically and state the parameters. That matter is not in dispute. If the Federal Government chose to reverse its policy in relation to the independence of the Reserve Bank, it could do that. Mr Rudd has indicated that he seeks to continue the policy. As I said at the time, if a Federal government is not prepared to do the only other thing it can do, that is, run a proper and sensible fiscal policy, it will find itself in a position where monetary policy is the only instrument that is left and there is a crunching of interest rates. I am very confident that with Mr Swan and Mr Rudd we will have a sensible fiscal policy, not one that seeks to pork barrel—

The Hon. Duncan Gay: What about you and Mr Watkins? How are you going to work with him?

The Hon. MICHAEL COSTA: I will continue my relationship with the current Premier. It is a very good relationship.

The Hon. Duncan Gay: Mr Watkins?

The Hon. MICHAEL COSTA: I think the Deputy Leader of the Opposition is dreaming. The person I saw come in here was Tony Abbott. What was Tony Abbott doing in this Parliament, Mr Personality with all his personal skills? He was crawling around this Parliament. He knows that the Liberal Party's leadership is in crisis and he is looking to switch from Federal politics to State politics. We are looking at having Tony Abbott as the next Leader of the Opposition. All I can suggest is that he needs to go to the same charm school I have attended to get his political skills in order.

The Hon. Greg Pearce: Point of order. I accept that my colleague the Deputy Leader of the Opposition interjected to give the Treasurer the opportunity to turn back into a comic, but I would appreciate it if he could respond to the issue I have raised about the role of the Reserve Bank and interest rates.

The PRESIDENT: Order! I cannot hear a word of what is being said on either side, and I suspect Hansard cannot either. I ask members again to please respect the forms of the House and allow the Minister to answer.

The Hon. MICHAEL COSTA: Is it not amazing that in response to interjections from The Nationals about the Liberal Party leadership that the deputy leader did seek to defend—

The Hon. John Della Bosca: Charlie?

The Hon. MICHAEL COSTA: No, Dennis. Is it Friday? Oh, no, it is not Friday. I hope on Friday in the news review he actually refers to the State final demand figures that came out today showing that New South Wales is performing very well on the national economy. In fact, we are number two on performance. That largely reflects what happened on 24 November. Confidence has come back to the New South Wales economy because they know they will be dealing with a different National Government. To return to the real issue, what was Tony Abbott doing lurking around this Parliament? There is a leadership challenge and it has nothing to do with the Labor Party; it has to do with the Liberal Party. The Coalition's poor performance means it is looking for a new leader and Tony Abbott is going to be forced on the people of New South Wales as the new Leader of the Opposition. The new Leader of the Opposition will be Tony Abbott. After his performance nationally I think we can all live in fear.

DROUGHT ASSISTANCE

The Hon. TONY CATANZARITI: I address my question to the Minister for Primary Industries. What additional effort has the State Government made to match the worsening drought conditions across much of New South Wales?

The Hon. IAN MACDONALD: I thank the honourable member for his question. We should sit late more often, I reckon. This is a timely opportunity to share with the House the latest round of vital drought-funding assistance provided by the Lemma Government. It is no secret that our State remains ravaged by drought. In fact, 81.9 per cent of New South Wales is drought declared. Another 10.5 per cent is marginal and 7.6 per cent is considered satisfactory. The only areas considered satisfactory are Moss Vale, Kempsey, Grafton and part of the Milparinka and Gloucester rural lands protection boards. From one end of New South Wales to the other there are stories of hardship and despair, but there are examples also of courage and determination. Our farming folk are tough. The Government has said from the outset that it will stand shoulder to shoulder with them to see out the long dry. We all know the only thing that can break this drought is rain, and plenty of it, but the State Government is providing a helping hand where possible.

Recently I announced an extension to the Government's drought package. This assistance package demonstrates the ongoing commitment of this Government to the rural sector, with more than \$365 million going out to our farmers since 2002. It entails a significant boost to our ongoing drought and financial assistance package to the tune of an extra \$17 million. This funding announcement has come at a particularly important time for our farming families. Many country families on the land now are facing their sixth or seventh Christmas in the grip of this horror drought. It is hard for those most affected to feel much joy at the prospect of a Christmas period with little or no desperately needed rain in sight. However, in the past few days there has been good rainfall in parts of the State.

This additional funding will help provide some relief to those families. It is a source of support to help keep them going through the challenges and financial burden caused by this drought. This latest assistance package enables vital support measures, including transport subsidies and drought support workers, to continue over Christmas and beyond. The extension of funding will enable the continuation of popular support programs, including Farm Family gatherings and drought support workshops. Our team of 10 dedicated drought support workers will remain in their roles for at least another 12 months. I understand that many of them are busily planning events and gatherings to offer a combination of information about available support as well as some entertaining relief for farming families from the stress they are experiencing.

In addition, the drought transport subsidy scheme will continue to help farmers and their families through the Christmas period. This popular support program provides subsidies for a range of essential farming transport mechanisms, including transport of livestock to and from agistment, transport of water and fodder for livestock, and transport of livestock to abattoir. Other components of the package include deferral of the 2008 pest insect levy and waiving the Wild Dog Destruction Board Rate in the Western Division for 2008. We accept that we cannot make it rain, however, we can put in place the necessary measures to ease financial and personal burdens where possible.

The tough reality for rural New South Wales is that the outlook remains bleak. Production estimates for this year's winter crops continue to drop at an alarming rate, as lack of rain, above-average temperatures and

drying winds have decimated the winter cereal, oilseed and pulse crops. Current production estimates stand at around 2.82 million tonnes, and that figure is expected to drop even further. Livestock feed will become an issue for many after the crops are grazed off, due to low availability and high cost of fodder.

Unfortunately, the rain outlook for the coming months also is not encouraging. The outlook for total November to January rainfall shows the chances of accumulating rain is between 45 per cent and 60 per cent in southern New South Wales and 60 per cent to 70 per cent in northern New South Wales. On the other hand, the chances of temperatures exceeding the average maximum are between 45 per cent and 60 per cent. In other words, our farmers and their families are in for a long, hot dry summer— *[Time expired.]*

CLOUD SEEDING HEALTH IMPACT

Mr IAN COHEN: I direct my question to the Minister for Primary Industries. The United States Environment Protection Agency reviews indicate that silver is hazardous to plants and animals, particularly fisheries and wildlife resources. Given that ingestion of small amounts of silver can cause poisoning in humans as silver iodide is dissolved in ammonium iodide or cloud seeding, can the Minister guarantee that cloud seeding is not a source of recent algal blooms in the Australian high country? Can the Minister assure the House that there is no adverse impact on human health or the environment from cloud seeding?

The Hon. IAN MACDONALD: Again this represents the Greens' attack on any technological solutions to problems created by some forms of climate change. The Government's cloud seeding program is among the world's most important research projects. In relation to silver iodide, there is no discernible measurable impact on the environment from the use of it in studies on this program.

Mr Ian Cohen: Or human health?

The Hon. IAN MACDONALD: And human health. It is subject to incredible monitoring. In fact, it is hardly detectable. From reports I have seen, the background is more measurable under this program. Again, this just shows how marginalised the Greens are becoming in opposing technological solutions to some of the problems we face. On all climate change issues the only things the Greens are interested in are wind power and some solar panels. That is the only subject that interests them. When we set about trying to find solutions to difficult technical problems, particularly technological solutions, the Greens oppose them. It does not matter what it is, the Greens will oppose it. And then the Snowy project came along.

In many areas it has been proved that cloud seeding works. More than 100 cloud seeding projects exist throughout the world and have been proved to be effective. This project is important because it endeavours to increase and enhance cloud mass in the upper atmosphere above the Snowy Mountains to boost the supply of water to that area. Yet the Greens are constantly carping about the program! One member of the Greens said to me, "It would be a damned good thing if we all ended up back in the caves." Members may rest assured that the Government will not allow that to happen. That is the Greens' underlying motivation.

Mr Ian Cohen: Who said that? Name them.

The Hon. IAN MACDONALD: It was said by one of the senior members of the Greens. That is typical of the attitude of the Greens: they want to close down everything and oppose every technological solution. The Labor Party has practical environmentalists among its membership, and I am sure that most members opposite are practical environmentalists as well. We work on finding practical solutions to problems that have existed for the past 200 years. We adopt practical solutions. We do not run away from science; rather, we embrace it.

The Hon. Michael Costa: Good science, not junk science.

The Hon. IAN MACDONALD: No, not junk science, such as might be found in the books exhorting by the Greens, containing propositions which, when subjected to minimal analysis, dissipate into thin air. The trouble with the Greens is that they refuse to knuckle down and recognise that we have a society of which we may be justly proud. It has to be maintained. There is no question that the Greens want to send the State into a depression. The Greens' total strategy is to ruin our State's economy, and the Government will have no truck with that type of approach. The program adopted by the Government for the Snowy is the world's best research program. It will deliver considerable environmental benefits in the Snowy Mountains.

ANZAC RIFLE RANGE, MALABAR

The Hon. CATHERINE CUSACK: My question is directed to the Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council. Will he indicate to the House his position on the future of the Anzac Rifle Range at Malabar, which the member for Maroubra says will close? What agreement has he reached with the Shooters Party to secure the passage of Government legislation in the final days of this sitting?

The PRESIDENT: Order! I call the Hon. Charlie Lynn to order for the first time.

The Hon. TONY KELLY: I am pleased to have been asked this question because it enables me to state on the record my connection with the Anzac Rifle Range. Both my father and my grandfather shot in what was once called the King's Shoot but what is now referred to as the Queen's Shoot. One of them was placed third. The land referred to is Federal land. It has nothing to do with me.

JUSTICES OF THE PEACE

The Hon. HELEN WESTWOOD: Will the Attorney General advise the House of the latest information on justices of the peace?

The Hon. JOHN HATZISTERGOS: The office of justice of the peace has a long history in this State; indeed, it has a long history generally, dating as far back as the thirteenth century. Over time justices of the peace wielded significant power. They had authority, among other things, to call out troops and oversee corporal punishment as well as impose imprisonment. Of course, times have changed, and so has the role of justice of the peace. With the emergence of magistrates the judicial functions of justices of the peace have diminished.

Honourable members would know that prior to reforms engendered by the former Attorney General justices of the peace were appointed for life. The Justices of the Peace Act 2002 provided for the appointment of justices of the peace and renewal of their appointment every five years. The Act set out the functions of justices of the peace and established a public registry of justices of the peace. A statutory review of that Act was undertaken recently. A total of 21 submissions were received from members of Parliament, justices of the peace organisations, individual justices of the peace and former justices of the peace.

The report makes seven recommendations to further improve the operation of the justice of the peace scheme. The Government will embrace all of the recommendations. Justices of the peace voluntarily provide important services to the community. The Government will amend the law to ensure that they do not become entangled in red tape. This action is consistent with priority P3 of the Government's State Plan—cutting red tape. Under the proposed changes justices of the peace will be able to renew their positions through a simple administrative procedure instead of requiring the approval of the New South Wales Governor.

One of the other recommendations of the report on the statutory review of the Act is that a reminder notice will be sent to justices of the peace three months prior to the date of expiry of their five-year terms. However, situations may arise when a renewal is not completed before the expiration of a term of a justice of the peace. For that reason it is proposed that the director general will be given discretionary power to renew registration after the expiry date. The Government will also introduce a justices of the peace code of conduct to uphold the integrity of the office. The code of conduct will remind justices of the peace that among other things they must behave courteously, maintain confidentiality, and not charge for their services. They will be obliged to notify the Attorney General's Department of certain information, such as if they are convicted of an offence or are declared bankrupt.

An acceptable usage policy will be published on the justices of the peace website to protect justices of the peace from being exploited. The policy will help to ensure that users of the justice of the peace register will behave reasonably and will not overburden justices of the peace with requests or contact them at unreasonable hours. Other recommendations in the review's report that will be adopted include the reconfiguration of the justice of the peace register to allow multi-sorting of information on the register and inclusion of information about justices of the peace who speak languages other than English, facilitating access to the register by people of non-English-speaking backgrounds, and the development of additional information for justices of the peace, including an updated Justice of the Peace Handbook, additional web-based resources and fact sheets to assist justices of the peace to perform their key functions.

The improvements I have outlined follow the abolition of the old lifetime appointment system—a system that made justices of the peace harder to find because they did not always inform the department when they had retired or when they had changed their address. The new system has enabled the department to compile a more accurate register. Anyone can now visit the justices of the peace website and access contact details for a justice of the peace in their area. I seek leave to table the five-year statutory review by the Attorney General's Department of the Justices of the Peace Act 2002.

Leave granted.

Document tabled.

DEVELOPMENT CONTRIBUTIONS RULE CHANGES

Ms SYLVIA HALE: I direct my question to the Treasurer. Will the Government's recently announced changes to the rules on levying development contributions cost local councils hundreds of millions of dollars that councils will now not have available to spend on basic social infrastructure, such as libraries, district sporting facilities and childcare centres? Has he estimated the additional expenditure that will be required from the State budget to pay for this local infrastructure? If it is not to be funded from the State budget and councils are to be restrained from collecting development levies, who will pay for this essential local infrastructure?

The Hon. MICHAEL COSTA: A very similar question was asked a number of months ago—in fact, it was asked the day after we made the announcement. I am happy to refresh the honourable member's memory. She was up late last night and, from what I saw, it appeared that she has not had enough sleep. The Government imposed realistic State infrastructure levies and local council levies. I will deal with local council levies because that is what the question is about. The Government has been very concerned about section 94 levies. Most people who have examined the issue of section 94 levies realise that many, but not all, councils—but certainly councils that have a high correlation with Greens representation might be in the category to which I refer—have sought to use section 94 levies not for the purpose for which they were designed, which was to provide localised infrastructure for communities, but, rather, as an additional taxing mechanism to either supplement their general revenue or alternatively to fund projects that have absolutely nothing to do with the local area from which the levies were collected.

It is an absolute disgrace that approximately \$750,000 is sitting in councils' coffers. Those funds had been collected from homeowners via developers, but the money has not been utilised for local infrastructure and community services. The Government has been very concerned about the exposure of some of those funds to subprime loans and collateralised debt obligations. That is part of the reason why the Government has taken some action. I make no apologies for that. In relation to some of the growth centres, we examined, item by item, what was legitimate local infrastructure. We made a decision that council levies should reflect expenditure on local infrastructure.

On some of those lots the section 94 levy went, from memory, from \$48,000 per lot to about \$28,000. Section 94 was used to collect easy funds at the expense of homeowners. The other problem with section 94 is that the money has not been spent for the purpose for which it was collected. As I said, there is more than three quarters of a million dollars. The Government is telling councils that if they collect the money they must spend it in a timely manner on the items for which it was collected. If they do not do that the Government will step in. It is a very good policy. For example, it will stop a single solar-powered light, which has nothing to do with development, being put up in one part of a local council area just because some nutty Greens member has a policy on solar energy—or whatever it happens to be that particular week—and decides to have a demonstration plan.

Councils must be held accountable for the funds they collect and how they spend those resources. That is why the Government has taken this step. We are very proud of it. I think it is a very good development and I hope the Greens will support us. The Greens should be up-front about their policies. They should go to the community and say—I know that this comment will offend them—"We are going to stick a clean coal demonstration plant or a solar sundial in the park and you have to pay for it." That is a good policy. It is better than collecting money under false pretences from homeowners and spending it on silly projects throughout the local government area.

Ms SYLVIA HALE: I ask a supplementary question. Is the Treasurer aware that councils have for many years had section 94 plans that have been publicly available and that constrain the way in which councils spend their money—

The Hon. Greg Donnelly: Point of order: That is not a supplementary question, but a statement. As such, it should be ruled out of order.

Ms SYLVIA HALE: To the point of order: My original question related directly to section 94 funds and the council plans that determine how those funds are spent. Therefore, my supplementary question is directly relevant to the original question.

The PRESIDENT: Order! It is borderline whether the question is a supplementary question and is in order. The Treasurer may answer the question if he chooses to do so.

The Hon. MICHAEL COSTA: Of course I choose to answer it. I gave the example of a solar light. Members can see it in front of Leichhardt Public School, which is my old school. There is a sign that says "Leichhardt council has gone solar"—and it has put up one light! On that basis the council has put signs on every telegraph pole in every other street that read, "This is a solar municipality". If the Greens think that is a good use of funds they are kidding themselves. The Government makes no apology for its actions. The plans that Ms Sylvia Hale referred to—

Ms Sylvia Hale: That's a Labor council.

The Hon. MICHAEL COSTA: I do not care who did it; we do not discriminate. I am talking about the nutty things that councils do when Greens members are elected to them. That is the sort of stuff we start to see. The reality is that section 94 plans have not been adhered to. The money has accumulated—there is three-quarters of a million dollars worth of evidence that the plans have not been adhered to. It sits in accounts and is not utilised for the purposes for which it was collected. It is spent on silly ideas that people such as the Greens have. It is an ideological slush fund. The Government will not stand by and allow that money to be utilised in that manner any longer.

CLASSROOM UNFLUED GAS HEATERS

The Hon. CHARLIE LYNN: My question is directed to the Minister for Education and Training, and Minister for Industrial Relations. The Minister will be aware that the enHealth Council report on school unflued heaters has finally been released after a delay of several years. What action will the Minister take to protect our schoolchildren and teachers against the risk of dangerous nitrogen dioxide and carbon monoxide gas emissions, which are linked to respiratory diseases and asthma? How long will it take to overhaul the 50,000 classrooms with unflued gas heaters?

The Hon. JOHN DELLA BOSCA: It must be that time of year: The Hon. Charlie Lynn asked a constructive question about a good issue. Congratulations, Charlie. I must admit that we were expecting something else. As the honourable member pointed out, a couple of days ago the enHealth Council released its monograph entitled "The health effects of unflued gas heater use in Australia". The monograph reports health effects related to the older blue-flame heaters but makes no comment on low-emission, or low-nox, unflued gas heaters other than to suggest that further research is warranted. The Department of Education and Training will be liaising closely with other government agencies, including the Department of Commerce, Department of Housing and NSW Health, regarding the content of the monograph.

The Department of Education and Training has been progressively replacing its older blue-flame unflued gas heaters since 1989. It established the Gas Heater Replacement Program in 1990 to ensure that emission levels of nitrogen dioxide from unflued gas heaters are below the levels recommended by health authorities. As at December 2006 more than 80 per cent of gas heaters installed in New South Wales public schools were the low-nox type. This year a further \$3 million is being allocated to replace an additional 2,000 heaters. The department has also been working with NSW Health since 2000 to monitor the ongoing performance of the replacement low-nox heaters that have been installed in schools. Every year, as the cooler months approach, the department issues a reminder to schools about ventilation guidelines and appropriate procedures for using gas heaters. Information is also available on the department's intranet for all staff to access. The department will continue to monitor the safe use of gas heaters and provide advice to schools as appropriate to ensure the health, safety and comfort of our students and teachers in New South Wales.

ROAD SAFETY

The Hon. LYNDIA VOLTZ: My question is addressed to the Minister for Roads. Will the Minister update the House on the latest road safety initiatives targeting speeding?

The Hon. ERIC ROOZENDAAL: As honourable members are well aware, speeding is the biggest killer on New South Wales roads. About 40 per cent of all fatalities on New South Wales roads are speed related. Sadly, speeding kills more people in summer, when the roads are dry, the weather is good and people think they can "get away with it". That is why last Saturday, on the first day of summer, the New South Wales Centre for Road Safety and the New South Wales Police Force launched a major offensive against speeding on the State's roads in the coming months. The latest statistics from the New South Wales Centre for Road Safety show that speeding kills 18 per cent more people in summer than in winter. There were 1,931 speeding-related crashes on New South Wales roads last summer that claimed 38 lives. This figure is down from the 79 who died 20 years ago in the summer of 1986-87 due to speeding. That is because community enforcement and awareness campaigns have been strengthened. But there is always more work to do.

On Saturday the New South Wales Centre for Road Safety unveiled a graphic new reminder of the dangers of speeding as New South Wales families start planning their summer holidays. A graphic roadshow will travel to regional centres this summer involving cars that have been used in crash tests at the centre's state-of-the-art Crashlab facility. I was joined at the launch in Coogee by the New South Wales Police Force Traffic Services Commander, Chief Superintendent John Hartley; the hardworking member for Coogee, Paul Pearce; and Maitland mother Michelle Amess, who tragically lost both her sons in a speed-related accident.

[Interruption.]

The Opposition should listen; this is serious. I am explaining that a mother who lost two sons in a speed-related accident attended the launch on Saturday, and Opposition members are laughing. That is really disappointing. I would like to acknowledge how difficult it was for Ms Amess to be there, and her determination to tell her story and put a human face to the deadly consequences of speeding. To lose one child is a tragedy but to lose two sons in the one crash is a loss too difficult to comprehend. Ms Amess' courage was inspiring and moving. She is using her personal tragedy to teach young people about the dangers of speeding and the reality of what a moment of recklessness can lead to. I will repeat a few of her heartbreaking comments to the assembled media because they speak louder than anything I could say:

I'm the face that represents hundreds of parents who are going through this situation ... and I am sure they would all say please slow down. The end result is they left a sister behind, and a mother who is struggling and a father who is struggling as well. You need to think about yourself ... you need to think about your mates and the repercussions of your actions... and what's left behind after the event. My son felt he was a confident driver ... like all kids he felt he was unbreakable ... and unfortunately he just pushed the envelope a bit too much on one particular day. It only took a few moments for them to lose their lives. I would just ask all young ones to slow down. Imagine your mother having to stand up and ask your friends to prepare for your funeral. It's not a good thing. It's the mums who have got to ask the mates what music they would like at the funeral and what they should wear when they're buried.

I am sure members would agree that parents should not outlive their children, and anything a parent can do to slow down their children on the roads is a good thing. This summer police will target all main routes out of major city centres as well as popular holiday destinations. Every highway patrol unit and all 450 highway patrol vehicles will be on the road over Christmas, and the police will be relentless in targeting people who speed. I urge motorists planning trips away during the Christmas break to watch their speed and guard against fatigue.

FOOD SAFETY STANDARDS

Dr JOHN KAYE: Does the Minister for Primary Industries recall making a commitment in May 2007 to amend the Food Act to ensure that details of fines imposed by the New South Wales Food Authority and council officers on restaurants that breach food safety standards will be made public? Does the Minister also recall that in late October 2007, after amendments to the Food Act failed to deliver the name and shame provision, his spokesman said that results of inspections will be made public "in the very near future"? What does "in the very near future" mean? Why do clients of restaurants in New South Wales have to play Russian roulette every time they go to a restaurant? When will restaurant goers in New South Wales get the same level of protection that is afforded to those in New York and Europe with proper name and shame processes and full revelation of inspections?

The Hon. IAN MACDONALD: I am glad Dr John Kaye has asked me this question because I have already written the press release. I will not make an announcement today but will save it for later. The Government will be legislating in this regard in the autumn session. I acknowledge the presence of Mr Peter Breen in the gallery. He was a genuine, practical left-wing person in this House. We miss his independence. Unfortunately, the Independents in this Chamber are down to four Greens and that does not give the Chamber

the previous level of practicality when it had practical people such as Dr Peter Wong and Dr Arthur Chesterfield-Evans.

Dr John Kaye: Point of order: I draw your attention to Standing Order 56 (5), which requires a Minister to be generally relevant. I do not think that berating the Greens—and recognising Peter Breen, regardless of his excellent contributions to this Chamber—is relevant to the 1,500 restaurant goers who end up with food poisoning every year in New South Wales.

The PRESIDENT: Did the honourable member cite Standing Order 56?

Dr John Kaye: Yes.

The PRESIDENT: Order! Standing Order 56 relates to documents quoted in debate.

The Hon. Michael Gallacher: So close.

The Hon. IAN MACDONALD: That is the story of his life. We need people such as Peter Breen, who got his facts right. It is a pity there has been a decline in the performance of the Independents in this Chamber. I hope that we can get genuine, practical left-wing Independents like Peter Breen back into the Chamber.

STUDENT LITERACY AND NUMERACY STANDARDS

The Hon. DON HARWIN: Is the Minister for Education and Training aware that the latest Organisation for Economic Co-operation and Development Program for International Student Assessment study, which was referred to by the Minister earlier in question time, has highlighted some areas of major concern, with New South Wales falling from second to third in Australian States and Territories in terms of literacy, and New South Wales school students performing worse in numeracy the longer they are at school, with the number of students achieving the numeracy benchmark dropping from 95.4 per cent in year 3, to 75.8 per cent in year 7? Will the Minister explain why the Government has allowed literacy and numeracy standards to fall so dramatically? What is being done to address this student numeracy and literacy crisis?

The Hon. JOHN DELLA BOSCA: The series of election commitments already announced some months ago, including the transition program between the main point that has been identified, and the Government has been quite—

The Hon. Michael Gallacher: What happened to your hair, Della?

The Hon. JOHN DELLA BOSCA: I have just been brushing it back.

The Hon. Michael Costa: He wants to look like Brendan Nelson?

The Hon. Michael Gallacher: It is sort of a mullet in the making.

The Hon. JOHN DELLA BOSCA: I am trying to look like Brendan Nelson. Do you think I can get to 14 per cent? The main point that has been identified is that these figures represent two areas where the Government has already focused on new work in relation to the challenges of student improvement, and one is in transition from primary to secondary schooling. The Government has an outstanding network of government primary schools. Those who choose to send their children to the independent and parochial school networks can be assured that they follow the same rigorous primary school curriculum. We know that children are performing very well in primary education. We know that there is a general pick-up amongst all cohorts, except the most challenged ones, when they reach secondary schooling.

Anecdotal evidence, and quite a bit of solid peer-reviewed research, indicates that much of that issue is around the transition of young people from primary to secondary school. That is why the Government announced a series of initiatives during the election campaign and since focusing on the issue of primary and secondary transition. The Government has allocated \$600 million to the State literacy and numeracy plans, additional resources, and a series of initiatives around the issue of projected classrooms, all of which will fulfil the State Plan target to achieve a general increase in the standard of performance across all cohorts in schooling. The member quite rightly pointed out that a number of challenges are indicated by the previous results but I draw his attention to the answer to my previous question. The glass, to use the clichéd terminology, is about

eight-tenths full, and the work on the remaining two-tenths is well and truly underway to make sure that New South Wales education is one of the leaders in the world. The results from the Program for International Student Assessment clearly indicate that the New South Wales education system is doing very well.

CHILDREN WITH DISABILITIES ACCOMMODATION FACILITIES

The Hon. HENRY TSANG: Will the Minister Assisting the Minister for Finance advise the House of the Lifetime Care and Support Authority's new respite accommodation facilities for children with disabilities and their families?

The Hon. JOHN DELLA BOSCA: I am pleased to inform the House of the opening of Jax Place to give children with disabilities and their families the opportunity to holiday in a safe, relaxing and accessible environment. Located in Sylvania on the Georges River, Jax Place is named in remembrance of Jackson Stubbs, who in 1993 was catastrophically injured at the age of three months in a car accident. Both of Jackson's parents were killed. The accident left Jackson with serious brain injuries and without mobility, sight or speech. Jax Place is the former home where Jackson lived with his grandmother and lifelong carer Judie Stephens, OAM, until Jackson passed away in 2005, aged just 12.

The Hon. Michael Gallacher: Point of order: Mr President, would you ask Government members to be quiet? The Opposition would like to hear the answer on this important issue.

The PRESIDENT: Order! The purpose of question time is to allow Ministers to answer questions asked of them by members. The Minister is entitled to give his response without interruption.

The Hon. JOHN DELLA BOSCA: Many people know that Judie Stephens dedicated her life to Jackson's care and to campaigning for better facilities and support for people injured in road accidents and their families and carers. In recognition of the needs of people who sustain a catastrophic injury as a result of a motor vehicle accident, the Iemma Government established the Lifetime Care and Support Scheme, which began operating for children in October last year. Since 1 October this year the scheme was extended to include all people catastrophically injured in motor vehicle accidents. Now anyone sustaining catastrophic injuries in a motor vehicle accident can receive the medical care and support needed throughout their life, regardless of who was at fault.

The scheme, administered by the Lifetime Care and Support Authority, will significantly improve the quality of life of people catastrophically injured in motor vehicle accidents in New South Wales. The Lifetime Care and Support Authority has purchased Jax Place as a respite centre for families caring for children with disabilities, including those catastrophically injured in motor vehicle accidents. Jax Place is a custom-built home that meets the needs of all family members. Facilities include a wheelchair ramp, a therapy room, a heated hydrotherapy pool and a self-contained carers flat. It is a testament to Judie's determination to provide a suitable home for someone with Jackson's very high needs.

I thank Judie and the staff of the Lifetime Care and Support Authority for their willingness to work together to ensure that this facility was not lost to people with a disability and their families. The facility opened its doors to the community on 22 November, and in this short time we have received great interest from local families looking to visit Jax Place. The opportunity to have a short break at Jax Place will increase the quality of life for children with disabilities and ease the pressure on their families and carers. Jax Place is another initiative by the Iemma Government to help build a healthy and supportive community, and meets a major priority of the New South Wales State Plan.

GAMING MACHINE REVENUE

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 25 of Sydney's richest hotels collect more than \$6 million year each from poker machines? Is it a fact that these hotels collect between \$220,000 and \$250,000 from each poker machine each year? Is it a fact that since 1997 New South Wales hotel revenue has skyrocketed by 728 per cent, from \$205 million to \$1.699 billion? Is it a fact that much of this is at the expense of Sydney's poorest residents in areas where struggling working families are losing their homes? Is it a fact that the Minister recently indicated that the Government will act in a socially responsible manner concerning the number of poker machines in New South Wales? Will the Government ensure that, in reviewing the Gaming Machine Act, poker machine numbers in hotels are progressively reduced by at least 50 per cent?

The Hon. JOHN DELLA BOSCA: I will ascertain an answer from the Minister and provide it to the member as soon as practicable.

If members have further questions, I suggest that they put them on notice.

GREEN EVENTS POLICING COST RECOVERY

The Hon. JOHN HATZISTERGOS: On 29 November 2007 the Hon. Robert Brown asked me a question without notice regarding Greenpeace activities. I provide the following response:

My Department advises that there is no legislative provision in New South Wales at present that explicitly permits police and other emergency services to recover the costs incurred when they attend protest activities.

I am advised that the Tasmanian Parliament has briefly considered this issue but has not at this stage introduced any legislation to permit such costs to be recovered.

Questions without notice concluded.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Motion by the Hon. Don Harwin agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 103 outside the Order of Precedence, relating to the budget estimates 2008-2009, be called on forthwith.

Order of Business

Motion by the Hon. Don Harwin agreed to:

That Private Members' Business item No. 103 outside the Order of Precedence be called on forthwith.

GENERAL PURPOSE STANDING COMMITTEES

Budget Estimates 2008-09: Portfolios and Hearing Dates

The Hon. DON HARWIN [5.04 p.m.]: I move:

1. That upon tabling, the budget estimates and related papers for the financial year 2008-2009 presenting the amounts to be appropriated from the Consolidated Fund be referred to the general purpose standing committees for inquiry and report.
2. That the committees consider the budget estimates in accordance with the allocation of portfolios to the committees.
3. That the initial hearings be scheduled as follows:

Day One: 13 October 2008

GPSC 1
GPSC 2

Day Two: 14 October 2008

GPSC 1
GPSC 3

Day Three: 15 October 2008

GPSC 4
GPSC 2

Day Four: 16 October 2008

GPSC 4
GPSC 5

Day Five: 17 October 2008

GPSC 5
GPSC 3

4. That an initial round of supplementary hearings be scheduled as follows:

Day One: 17 November 2008

GPSC 1
GPSC 2

Day Two: 18 November 2008

GPSC 1
GPSC 3

Day Three: 19 November 2008

GPSC 4
GPSC 2

Day Four: 20 November 2008

GPSC 4
GPSC 5

Day Five: 21 November 2008

GPSC 5
GPSC 3

5. That the committees may hold additional supplementary hearings after 21 November 2008 as required.
6. That each scheduled day for the initial round of hearings will begin at 9:15 a.m. and conclude by 6:00 p.m..
7. That for every hour of a hearing, the total time for questions by Government members, and answers given to those questions, must not exceed 10 minutes.
8. The committees must hear evidence in public.
9. The committees may ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure.
10. A daily Hansard record is to be published as soon as practicable after each day's proceedings.
11. The committees are to present a final report to the House by the first sitting day in March 2009.
12. Members may lodge questions on notice with the Clerk to the committee during a budget estimates hearing and up to two days following.
13. All answers to questions taken on notice during the hearing, and questions on notice lodged up to two days following the hearing, must be provided within 21 days.

We are a House of review and our scrutiny role extends beyond legislation alone. The annual review of proposed expenditure by government departments through the referral of the budget estimates to our general purpose standing committees is an essential part of our scrutiny function. The referral of the budget estimates to joint estimates committees commenced with the Charter of Reform in the Fiftieth Parliament. However, since May 1997 estimates have become part of established practice in the Legislative Council when the House established the general purpose standing committees. Ten years have passed with some incremental changes, some of which were moved by me.

This motion is before the House because Opposition and crossbench members recognise that more can be done to make the estimates process effective. In doing so, we have been mindful of the successful model adopted by the Australian Senate, which has had a much-praised estimates process with a history going back to 1970. We have agreed on three important matters, which the Leader of the Opposition has discussed with the Government, and we seek to have the House debate them now and decide whether they should guide how the 2008-09 budget estimates are handled in the new year, and potentially going forward.

Those three matters are these. First, there should be an agreed week in each calendar year in which the general purpose standing committees should hold their initial hearings on budget estimates. It should not be a sitting week. Secondly, cognisant of the Government's stated wish to reduce the operating costs of the Parliament through so-called family friendly sitting hours, we believe that the budget estimates hearings should have an earlier conclusion and not sit into the evenings. This will ensure that the cost to the Parliament is

minimised. Thirdly, after a reasonable amount of time for Ministers to respond to questions on notice, there should be an agreed week in which supplementary hearings can take place as required.

This motion will give effect to those three guiding principles. When the Senate sitting days are announced each year, the dates for estimates hearings are shown on the calendar. We should mirror those arrangements. Paragraph 3 of the motion gives effect to this. In discussions between Opposition and crossbench members the week beginning Monday 13 October 2008 emerged as the preferred week. It is not a scheduled sitting week, and this is an important step forward to have a separate week established. Paragraph 3 has been drafted to reflect current arrangements, with only two committees sitting at the same time. The motion lists which committees will sit on each day, so that will limit the number of dates that Ministers must keep free in their busy diaries. The allocation of committees to actual dates was prepared by the Clerks, not the Opposition or the crossbench.

Paragraph 4 has been drafted along similar lines in relation to the initial round of supplementary hearings. Of course, supplementary hearings will be held in this initial round only as required, following a resolution of the committee. This reflects existing practice. Similar considerations apply in relation to paragraph 5. Paragraph 6 relates to sitting times. The Opposition has a longstanding opposition to the Government's practice of holding estimates hearings after 5.00 p.m. Invariably, the major portfolios are scheduled at that time and every member of the House knows why that is so. The afternoon after the night and morning before, saner sitting times, I am sure, look good to most members of the House. This proposal for sittings restricted to the 9.15 a.m. to 6.00 p.m. time slot will also assist the Parliament to lower its operating costs. However, it should be noted that the time available for each committee for examination of the budget estimates is reduced slightly; hence paragraph 7.

Given that Government members tend to ask dorothy dixer questions, we feel that the reduction should be borne by them. I note that an amendment relating to that has been circulated. Paragraphs 1, 2, 8, 9, 10, 11 and 12 are standard clauses for estimates resolutions. Paragraph 13 relating to questions on notice arises out of the time between the initial hearings and the initial round of supplementary hearings. It is impractical to use the House's questions and answers paper for this reason. I note also that an amendment relating to paragraph 13, which reflects existing practice, has been circulated. So the Opposition will not have any problem with that amendment. These changes, with their limited scope, will significantly improve the efficacy of the estimates process in the House. They will bring us further into line with the arrangements in the Australian Senate.

At this time we are not proposing to resolve further matters, such as how a committee will use time allocated to it by paragraph 3. There are differing views. I have taken advice and the advice is that there is no impediment to resolving these three agreed matters in relation to the 2008-2009 budget estimates now and addressing other matters in the autumn session, prior to the tabling of the budget papers or, indeed, leaving them for the individual committees to determine.

The key is to give everyone notice now of when the hearings are to take place. I hope that that is something on which the whole House can agree today, so that Ministers, members, departments and staff can have certainty, 11 months prior to the commencement of the initial hearings. There are encouraging signs in that respect. Finally, I thank all Opposition and crossbench members who have approached estimates debrief meetings that I convened with a spirit of goodwill and cooperation and, above all, a desire to get the best result to ensure we maximise the House's scrutiny of public finance on behalf of the people of New South Wales. I hope our discussions will bear fruit, and I commend the motion to the House.

Reverend the Hon. FRED NILE [5.10 p.m.]: I thank the Hon. Don Harwin for all his hard work over a number of days in developing his motion for a far more efficient method of conducting the estimates hearings in 2008. I agree with the motion, with two minor changes. I move:

That the motion be amended as follows:

- (1) Paragraph 7. Omit the paragraph.
- (2) Paragraph 13. After the words "21 days" insert ", or as otherwise determined by the committee".

The omission of paragraph 7 will allow the committee, when it meets, as happens now, to discuss the allocation of time and how it wishes to conduct meetings and questions. Government members have the option of forgoing that time; it is in their hands. The principle is that hearing days should be available if Government members wish to exercise their right. Although we have a Government and an Opposition, I believe strongly in the

principle that all members have equal rights to ask questions, as demonstrated during question time. We could move a motion that states that as Government members ask dorothy dixers, why have their questions? Why not have questions from the Opposition and Independents only?

That principle had been agreed to by both sides of the House for various good reasons. That principle should be followed through in the estimates committees. However, as I said, it is up to the committee to discuss that matter if it wishes. The committee can decide its own allocation of time, rather than be bound by a motion of the House. My amendment No. (2) is a minor one to allow flexibility. It may not always be possible to have the answers from a Minister within 21 days. That can be negotiated, as has happened on some occasions, to 35 days. My amendment leaves that matter in the hands of the committee, aiming at 21 days, but the committee may decide otherwise.

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [5.13 p.m.]: The Government has had considerable discussion with members of the Opposition and some crossbenchers in relation to these matters. The Government supports the motion and particularly supports the amendments moved by Reverend the Hon. Fred Nile that offer some flexibility for the committee to make up its mind. Different committees have different reasons for sitting longer or different hours, particularly if a committee intends to recall a Minister for a second hearing in 21 days. I understand the need for that, if the committee is to sit on the days that were set down in the motion. If a Minister is not to be recalled there is still flexibility for obtaining a particular answer rather than all the answers. The Government supports the amendments moved by Reverend the Hon. Fred Nile.

The Hon. DON HARWIN [5.14 p.m.], in reply: I thank Reverend the Hon. Fred Nile and the Minister for Lands for their comments. The first amendment moved by Reverend the Hon. Fred Nile is to omit paragraph 7. Effectively the amendment will delegate that decision to each committee rather than giving it to the House. In a sense that sort of determination is open for a committee to make, even if the amendment is agreed to. However, the Opposition will adhere to its position and no doubt the House will form its view.

The second amendment moved by Reverend the Hon. Fred Nile, and following on from the comments from the Minister that encapsulated discussion that I have had with him earlier today, the Opposition will support that amendment. It reflects the existing practice of committees. General Purpose Standing Committee No. 4, under the Chairmanship of the Hon. Jennifer Gardiner, did exactly that after a request from Minister Sartor in relation to his portfolio. I have no problems with including what is after all an existing practice. I thank all honourable members for their contributions. I look forward to the House agreeing to my motion.

The PRESIDENT: Order! I propose to put questions on the two amendments of Reverend the Hon. Fred Nile *seriatim*.

Question—That amendment No. 1 be agreed to—put.

The House divided.

Ayes, 18

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

Noes, 17

Mr Clarke	Mr Gay	Ms Parker
Mr Cohen	Ms Hale	Mr Pearce
Ms Cusack	Dr Kaye	Ms Rhiannon
Ms Ficarra	Mr Khan	<i>Tellers,</i>
Mr Gallacher	Mr Lynn	Mr Colless
Miss Gardiner	Mr Mason-Cox	Mr Harwin

Pairs

Mr Della Bosca
Mr Obeid

Mr Ajaka
Mrs Pavey

Question resolved in the affirmative.

Amendment No. 1 agreed to.

Question—That amendment No. 2 be agreed to—put and resolved in the affirmative.

Amendment No. 2 agreed to.

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

Motion as amended agreed to.

TABLING OF PAPERS

The Hon. Tony Kelly tabled the following papers:

Annual Reports (Departments) Act 1985—Report of the Department of Premier and Cabinet for the year ended 30 June 2007.

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

LIQUOR BILL 2007**CASINO, LIQUOR AND GAMING CONTROL AUTHORITY BILL 2007****MISCELLANEOUS ACTS (CASINO, LIQUOR AND GAMING) AMENDMENT BILL 2007****Second Reading**

Debate resumed from an earlier hour.

The Hon MICHAEL GALLACHER (Leader of the Opposition) [5.25 p.m.]: I contribute to debate on the Liquor Bill 2007 and cognate bills and place on record my ongoing concern about one area of the liquor industry. I am fortunate enough, on behalf of the Opposition, to represent the policing portfolio. I still believe that not enough work has been done by the Government to ensure some certainty in what is commonly known as the liquor and hospitality linking program. Increasingly, over the past few years we have received anecdotal evidence from clubs and hoteliers about the way in which the linking program has been misinterpreted and the resulting deterioration of the relationship between some quarters of the liquor industry and the New South Wales Police Force.

The liquor and hospitality linking program is an intelligence system used by the New South Wales Police Force to identify workload, hot spots or criminal activity linked to the liquor and hospitality industry. For many years the intelligence system has been used by the New South Wales Police Force to identify hot-spot areas, or areas frequented by people involved in criminal activities, and the relationship that has existed between some outlets in the liquor industry. Over the years we have seen how some criminals like to frequent certain locations, which become well known to police as areas to which resources need to be targeted to address that problem.

Members of the Australian Hotels Association and clubs have assured me that the idea of ensuring that police resources are used widely to target these criminal elements was first thought up by the Australian Hotels Association and ClubsNSW. Some time ago they came up with the idea of working with law enforcement agencies to target criminal elements that frequented licensed premises to ensure that police resources were used expeditiously to drive out those elements from the liquor industry. I am not talking about employers; I am talking about people who frequent places where alcohol is available, whether it be a club, a pub or, in some cases, even a restaurant.

Over the last couple of years in my travels around the State as shadow Minister for Police industry people I have bumped into have related bizarre stories of how this linking program has gone beyond what was

put forward by the liquor industry to assist police in targeting criminals. Some events link licensees of certain hotels to taxation problems. I am told that when an offender with taxation problems goes to a hotel and becomes the subject of a police investigation, somehow the hotel becomes linked to that offender.

Because the linking program is misinterpreted a hotel, club or other licensed premises can be linked to criminal activity—including traffic violations and involvement with unregistered or uninsured motor vehicles—without proof of any direct involvement. Most reasonable people would regard that as unfair given that the managers of such licensed premises are not informed automatically of any link. For example, if someone involved in a crime reveals in the course of an interview with police that in the hours, or indeed minutes, leading up to the commission by that person of a crime they were consuming alcohol at particular licensed premises, those premises would be identified in the criminal intelligence system maintained by New South Wales police. According to the linking program, the person of interest does not have to consume alcohol at the licensed premises; his or her presence at the premises is enough.

Most would agree that it is unreasonable that the manager of licensed premises is not notified immediately such premises is linked to crime. Such information is not known for some time. It may be some months before the hotel licensee, club board member or owner of the particular premises becomes aware of the link. An owner of licensed premises who applies for council approval to modify an area assigned for alcohol consumption may be confronted with a linking program event history regarding the premises. The event history may contain information dating back some months about particular premises and a person of interest to the police. In such a case the licensee will not have had any opportunity to refute the information.

For example, if a person who is arrested says that he or she was at licensed premises for some time before committing a criminal offence, the owner may, if notified immediately, have the opportunity to study closed-circuit television footage or interview staff to check the veracity of what is being alleged. Of course, if the management is not told of such an allegation at the time it is made or for quite some time afterwards, it will not have had the opportunity to refute the allegation. And subsequently, when the manager is informed of the allegation he would scratch his head thinking: Well, there is no way in the world that I can test the allegation because the closed-circuit television footage is gone; even if I went to the roster and had a look to see which staff were on duty, they will not be in a position to identify anybody.

We all agree that police need to collect information in order to target their resources towards criminal activity. But there are other very important partners in the liquor industry, and they are the liquor traders: the clubs, pubs and other licensed premises. They are not advised immediately—and quite often not for some considerable time—of any allegation of a link to a criminal offence. It really is quite an unfair situation. Today in New South Wales we talk about accords with the liquor industry, and about working in partnership with that industry to drive down alcohol- and drug-related crime in licensed premises, but because of the current silly system we are not prepared to sit down and work towards a positive resolution with the liquor industry to provide it with an opportunity to be involved in the process—to offer it an equal partnership at the bargaining table. It is disappointing that that is not part of the reform process. This very important reform of the liquor industry must take place and it should commence with the Government acknowledging that what is happening in New South Wales is not right, that what happened in the past most certainly is unacceptable and that what will happen in the future is that the Government will sit down with all players, the police and those involved in the liquor industry, to ask how the situation can be improved. I am prepared to do so; why is Minister Campbell not prepared to do so?

Ms LEE RHIANNON [5.36 p.m.]: New South Wales clearly needs a shift in drinking culture. Alcohol-related violence is escalating, trading hours for pubs are getting longer, the responsible service of alcohol is largely absent, and live music too often has been replaced by the whirl and beep of poker machines. Many Greens members have said to me time and again that they do not want to go out to beer barns and/or pokie halls. They ask why there is not an alternative. Many people in this State are keen to see a shift in drinking culture. In his agreement in principle speech on this bill the Minister for Gaming and Racing, Mr Graham West, claimed that this package of bills is a complete rewriting of New South Wales liquor licensing laws.

With these bills the Government had the opportunity for change to rein in the power of the pubs and clubs industry. Unfortunately, this package of bills is a missed opportunity. Potentially the bill allows for the loosening of the stranglehold the big players in the pubs and clubs industry have had on the opening of new venues in New South Wales. It allows for a category of smaller bars and offers the potential for a new style of drinking venue in New South Wales. The Greens strongly support this move. We hope that it will allow for greater diversity in drinking venues, and alternatives to beer barns, which foster violence and alienation and where all too often poker machines dominate.

To really shift the drinking culture in New South Wales we need, in addition to expanding opportunities for smaller bars to open, to wind back the beer barns and pokie halls and extended trading hours, which have been handed out like lollies by this Government in return for generous political party donations. Otherwise, we risk the unchecked proliferation of liquor outlets in New South Wales and an associated level of harm to the community. I will be moving amendments in Committee that I hope will serve to finesse the new laws to make sure that New South Wales has genuine small bars.

The amendments will limit small bar patronage to 120 people, restrict the number of small bar licences any person can hold to 10, and provide for a review of the impact of these new laws. Minister West has gone to great lengths to emphasise that this bill removes red tape, that it increases flexibility, that it decreases cost for industry and government and cuts down on formality. The problem with this mantra of deregulation is how this sits with the aim of properly regulating alcohol. That is the challenge before us.

I must say that when I hear about the Government removing red tape and increasing flexibility, alarm bells were set off for me. The Labor Government has sacrificed many areas of social policy on the altar of so-called efficiency and deregulation and in the name of the unquestioned so-called wisdom of modern government, but should that be the highest priority when it comes to alcohol? Restricting liquor licences abuts national competition policy, but how the two relate must be the subject of proper community debate. When legislation is rushed through, such as on this occasion, that cannot be achieved.

The best liquor laws in the world will fail if this administration allows a major proliferation of outlets and extended trading hours and persists in its failure to listen to genuine community concerns. The success or failure of the liquor laws provided in the bill will turn on how they are administered and enforced. That is a big unknown. The history of the liquor industry in New South Wales suggests that the interests of pubs and clubs may prevail over the community and over public health. The latest research on this issue by the New South Wales Bureau of Crime Statistics and Research shows that much of the enforcement activity associated with existing New South Wales liquor laws focuses on patrons—not owners, managers or staff of licensed venues.

When action has been taken against a licensee, manager or secretary of licensed premises, it has been mostly for technical breaches of liquor laws, such as failing to display a licence or a prescribed sign. Dr Don Weatherburn urges stricter enforcement of liquor licensing laws. He regards that as critically important if we want to reduce levels of alcohol-related crime and violence. With the existing scheme it is very difficult to achieve changes in liquor licences, such as reduced trading hours, or to have licences revoked. The community has had to take matters before the Liquor Administration Board and produce evidence with police support. Sometimes residents are forced to collect data. Even complaints hotlines associated with pubs are not necessarily staffed.

Much of the implementation of these laws remains a mystery to members of the House. We have been told that regulations will follow. The regulations associated with this bill will be expensive and will have a huge impact on how the bill is implemented, as will resources directed toward policing, enforcing and prosecuting venues. The Greens urge the Government, when administering these laws through the Casino, Liquor and Gaming Authority and the Director of Liquor and Gaming, to do the right thing by the community and tighten the reins on an already bloated industry. The bill leaves the door open for the continued expansion of liquor outlets. It in no way reins in the power of the Australian Hotels Association and the pubs and clubs industry. They will continue to apply pressure to get what they want.

We know that Mr John Forbes, the head of the Australian Hotels Association, has been to Parliament seeking to shore up a legislative and administrative framework that will suit his members. The pubs and clubs industry are some of the goliaths of the donations game, having given hefty donations to both Labor and Opposition parties. Between 1998 and 2005, New South Wales Labor received more than \$2.9 million in donations from hotels, and \$750,496 from the Australian Hotels Association. During that period, the New South Wales Coalition received more than \$1.3 million combined. Electoral Commission figures recently released show another generous handover of donations from the industry to Labor in the lead-up to the March 2007 election.

Since Labor came to power in 1995, the Government, with the support of the Coalition, has changed laws in a way that suits the industry. The number of hotels opening 24 hours a day has ballooned. At the same time concessions have been granted with regard to the total ban on smoking in clubs and pubs. In 1997 the former Premier, Mr Bob Carr, gifted poker machines to hotels, radically enriching the profits of those hotels. Labor, with the support of the Coalition, also has changed laws to allow hotels to buy gaming machines from

other hotels. We should remember all of the changes that have been passed by Parliament that have favoured the gaming industry, and the hotel and club industry, and that they occurred at the same time that donations to Labor and the Coalition continuously increased until they reached millions of dollars.

Alcohol is not benign. It is a dangerous drug when misused. The negative impact of alcohol was spelled out in detail to the Government during the Alcohol Summit in 2003. We need to remind ourselves that alcohol causes addiction, binge drinking, chronic disease and other health problems. It results in an enormous amount of related crime, road accidents and deaths, violence including assaults, suicides, injuries and drownings. All of that comes at considerable social and economic cost to the community. New South Wales police alone spends at least \$50 million a year responding to alcohol-related crime, according to Dr Don Weatherburn of the Bureau of Crime Statistics and Research. According to research compiled by the New South Wales Parliamentary Library, alcohol is responsible for 47 per cent of assaults, 37 per cent and 18 per cent respectively of all road injuries involving males and females, 16 per cent of cases of child abuse, 12 per cent of male suicides and 8 per cent of female suicides, 44 per cent of injuries resulting from fire, 34 per cent of drowning incidents, and 34 per cent of injuries sustained as a result of a fall. These are significant and tragic statistics. They drive home the point that the Government cannot afford to ignore the enormity of problems caused by alcohol.

The Greens support the objects outlined in clause 3 of the Liquor Bill 2007, in particular, the emphasis on harm minimisation, the need to encourage responsible attitudes toward the promotion, sale, supply, service and consumption of alcohol, and the attempts to ensure that the sale, supply and consumption of liquor contributes to the amenity of community life. We particularly support the provisions that aim to contribute to the development of the live music and entertainment industry. The objects of the Act have been tailored to acknowledge the importance of the live music industry. A new on-premises liquor licence will be created for public entertainment venues. Processes for managing noise and disturbance complaints have been modified to take into account the need to support musicians and the live music scene. The capacity for young people under the age of 18 to perform and earn an income alongside established professionals in licensed premises is also a win for live music in this State.

The Greens support maintaining existing provisions for the responsible service of alcohol, harm minimisation and increased maximum fines for venues repeatedly caught supplying alcohol to miners and intoxicated patrons. We note that the responsible service of alcohol seems to be the exception rather than the rule, and that much more needs to be done to ensure it actually occurs. The Greens welcome the new power for the Director of Liquor and Gaming to order lockouts that will allow patrons who are already inside a venue to stay, but will prevent entry by new patrons. This will address the problem of queuing and lingering in streets—a recipe for alcohol-related violence. We also support new powers to ban products that promote irresponsible, rapid, excessive drinking, and requirements for venues to keep incident registers when they have extended trading hours. The bill allows for the creation of binding liquor accords. I note that the 2003 Alcohol Summit recommended that liquor accords be mandatory. It is disappointing that the Government has not chosen to adopt that model.

The bill reduces 23 complex and restricted categories of licence to six categories. In particular, a general bar licence will be created that we hope will facilitate the opening of smaller boutique bars. The licence will be granted in a way that is less restrictive; it will be more flexible and more affordable. The licence fee will be reduced to \$500 rather than the current \$2,000 followed by an annual fee of \$2,500 and a complex social impact assessment process that can cost approximately \$50,000. In an ideal world, this will open the door for smaller, low-impact bars to civilise the drinking scene in New South Wales and provide some alternatives. The Greens believe that facilitating the increase in small bars is a step in the right direction. We congratulate the Government on responding to the community campaign.

I congratulate all the people involved in the community campaign Raising the Bar, which certainly showed a lot of campaigners in this city how to get a message across. However, the Greens are concerned that the devil is in the detail and that the cracks in this bill will become obvious when it is implemented. For example, it is not obvious that there is no small bar category. The general bar licence opens the door for any side liquor outlet to open. I will move amendments to restrict the number of patrons to such an outlet to 120 in line with the provisions applying in Western Australia and the original bill introduced by the member for Sydney, Clove Moore, in the lower House. This is necessary otherwise we will end up getting big bars by stealth.

The Greens are concerned that the bill may lead to a rampant flourishing of new liquor outlets. There is an intuitive relationship between the availability of alcohol and its consumption. Likewise, there is a clear relationship between the consumption of alcohol and harm. With rare exceptions, the more available alcohol is

the more it is consumed, and the more it is consumed the more harm is caused to the individual, to the people around the individual and to society.

That might sound like an argument against small bars but I believe we must look much deeper. Dr Alex Wodak speaks of nuances in availability. The more dangerous venues have a high volume of alcohol and low profit margins—the beer barns. Costs are cut, alcohol is cheap, there are cut-price attractions, the seating is uncomfortable, the music pretty loud and there is little fresh air circulating. There is a high staff turnover, there are incidents of violence and the only food on hand is often salty nibbles—a recipe for increasing thirst. The atmosphere is so unattractive that people turn up, down a few drinks and leave—or down a few more drinks. The better model that Dr Wodak explains is low-volume, high-profit-margin venues. These are smaller places that are well ventilated, with good food available.

I foreshadow that I will move amendments in Committee to limit the capacity for big franchises or a concentration of ownership to flourish by ensuring that no applicant can hold more than 10 small bar licences. The Greens are concerned about Westfield, Woolworths, Coles, other business giants and the Property Council of Australia jumping on board and using the new laws to grow their businesses and their profits. We must ask: Are we going to see small bars, or maybe even large bars, run by big franchises throughout our shopping centres and on our main streets? Is this what people wanted when they campaigned for small bars? I believe the Greens amendments will help guard against this development.

The Greens support the shift in this bill to take liquor licensing out of the courts and introduce an administrative-based system. Liquor licence applications and disciplinary matters will be considered by the new Casino, Liquor and Gaming Control Authority. Removing licensing issues from the lawyer-heavy Liquor Licensing Court is a step forward. Exorbitant lawyers' fees associated with appearances in court were a significant barrier to smaller operators establishing small bars and to community members having their say. Under the new model, residents and local councils can make submissions directly to the authority, which will be able to conduct interviews and meetings to help stakeholders put forward their views. A less adversarial, more inquisitorial approach has the potential to better pick up on submissions from councils and residents.

My office has also received reports that the Liquor Licensing Court was not operating on a level playing field. Lawyers have made lots of money and many hotels have been granted extended trading hours but the public interest has often been squeezed out. Local councils have often fought hard for their residents, trying to reduce extended trading hours and limit the operations of pubs because of noise and other disturbances. These councils are often lobbied by residents and are keen to act on their concerns but they have had little joy in the court. Yesterday I met with Genia McCaffery, the Mayor of North Sydney and head of the Local Government and Shires Associations. She said that in her experience councils usually lose in noise complaints cases. She said that she knew of only one case that her council had won, and that involved a bar proposal in an area of Kirribilli that was surrounded by residential complexes.

The bill does not change standard hotel and liquor store trading hours even though extended trading hours have become institutionalised in New South Wales. Extended trading hours are bad news for densely populated city areas. Residents can be severely affected and the proportion of alcohol-related crime escalates late at night. Recent research by the Bureau of Crime Statistics and Research reveals that the longer licensed premises are allowed to trade, the higher the level of violent incidents. A study by the National Drug Research Institute shows that extending trading hours by an hour or two increases by 70 per cent the number of assaults in and around licensed premises. The research also holds that hotels that already have high levels of alcohol-related problems are the ones most likely to seek later trading hours.

Queensland Premier Anna Bligh announced recently that licensed premises in Queensland would return to 10.00 a.m. to midnight trading, slashing their trading hours. That contrasts starkly with the provisions in the bill, which retains existing trading hours and allows for their extension. Late-night trading venues have a massive cumulative impact. There are many 24-hour venues in this State—in fact, more than anywhere else in Australia. Again, the devil will be in the detail. The Casino, Liquor and Gaming Control Authority Bill 2007 expands the role of the existing Casino Control Authority. Given the authority's lack of teeth when dealing with problem gambling, I fear that the prospects for the new body may be grim. The Casino Control Authority does not have a strong culture of cracking down on Star City Casino. Is there any reason for thinking that the new authority will do a better job on liquor issues? The Government must resource the authority adequately and direct it to act in the community interest, with a view to minimising alcohol-related harm.

We need proper consultation with the local communities that will bear the brunt of liquor outlets. We need an expert assessment of their likely impact before final decisions are made. Alcohol causes harm. This is a

most serious matter, but the licensing process should not continue to be a barrier to new players entering the market. The bill introduces new community impact statements to replace the old social impact assessments. Statements will be prepared before liquor licence applications are made and will summarise the results of consultation with local councils, police, health agencies, Aboriginal representatives, community organisations and the public. This is meant to be less costly and time consuming, and also more targeted. The problem is that all the detail about how the process will work is in the regulations. For example, we are told that advertising requirements for applications will be practical and provide reasonable notice. That is hardly an enlightening direction. How widely will the application be advertised? Where will it be advertised? Will it be sufficient to let community members know about the application?

The Minister for Gaming and Racing provides that the community impact statement process will relieve applicants from having to obtain large amounts of data and prepare complex and costly assessments so that they can focus on consultation with local communities. How will the Government ensure that this occurs while also making sure that consultation is thorough and expert and that the decisions made reflect consideration of community impact statement findings? Will the statements guard against unreasonable clustering of outlets, which can have a big impact on local neighbourhoods and contribute to drunkenness, noise and property damage? Local neighbourhoods can benefit from the operation of small bars but they can also bear the brunt if more and more liquor outlets open. Residents, and local councils on their behalf, should have a real and meaningful say in the granting of liquor licences that will directly affect their lives.

I thank Raise the Bar and the thousands of people who came out in support of the small bars campaign. Through Raise the Bar almost 8,000 people came out in support of the campaign, signing and circulating petitions, sending electronic drinks to members of Parliament, starting Facebook groups and harnessing other incredibly innovative ideas. I understand that on Monday Raise the Bar was successful in organising many telephone calls to politicians urging them to support the bill. That is a great campaign. It is a way of giving the community a voice and ensuring that politicians hear a cross-section of views. Specifically, I congratulate John Wardle, the Musicians Union and the Media, Entertainment and Arts Alliance on their excellent campaigning in the interests of live music. The Greens hope that their efforts will not be wasted and that liquor laws will be administered in New South Wales in a way that reduces alcohol-related harm and that regulates properly our big drinking culture.

Reverend the Hon. FRED NILE [5.58 p.m.]: The Liquor Bill 2007 is probably the most radical liquor bill to be introduced into Parliament in the 26 years that I have been a member of the Legislative Council. There is a lot of pressure to reform drinking habits and create a better atmosphere in cafés, small bars, clubs and so on. I can understand the pressure for these types of outlets, comparing Sydney with Melbourne. The fundamental question is whether New South Wales needs more liquor outlets? If the number of liquor outlets is increased does liquor consumption increase? Yes. Many young people engage in excessive alcohol consumption. People have questioned whether the legal drinking age should be increased from 18 to 21 years, as is the case in a number of States in the United States of America? John Thorpe is not normally an ally of the Christian Democratic Party but his assessment of this bill was probably the first criticism of it published in the media. Mr Thorpe said that the bill would lead to the possibility of 4,000 additional drinking venues in this State. He foreshadowed a "flooding" and "explosion" of alcohol on the streets of Sydney. At a press conference at the Slip Inn in Sydney Mr Thorpe denied he was simply seeking to protect the interests of his members—that is, hotels—whose businesses would be hurt by small bars. He said:

We are not worried about competition. What you have got to be concerned about, what I want you to get your head around, is alcohol is a drug. It is a drug that does have an effect on alcohol-related crime. Go and talk to the Crimes Statistician, Dr Don Weatherburn. He will tell you all about it.

He said in conclusion that the floodgates are now open, "We have massive problems now with alcohol-related crime. Now you have told me all about the Melbourne scene, how great it was". Mr Thorpe claimed that Melbourne is dealing with an increase of alcohol-related crime of 21 per cent. I have not verified his figure but I do know Melbourne has great social problems and is not the conservative, quiet city that it used to be. We know that as a result of gang wars, shootings and murders, Melbourne's image has changed.

This bill deals with a number of areas related to the sale of alcohol, and contains various reforms, some of which the Christian Democratic Party supports. The bill provides for a Casino, Liquor and Gaming Control Authority, which will deal with applications for liquor licences and extended trading hours; impose penalties and suspend or cancel licences in disciplinary matters. Applications for a review of a non-casino disciplinary decision of the authority can be made to the Administrative Decisions Tribunal. The director of Liquor and Gaming has virtually total say on all those issues and can determine noise disturbance complaints, impose or

vary licence conditions, and can declare lockouts or curfews to reduce patron migration between licensed venues in problem areas. Those decisions can be reviewed by the Casino, Liquor and Gaming Control Authority, but I do not think the Government expects many appeals.

The Christian Democratic Party is concerned that the very efficient Liquor Administration Board is now shelved by this legislation. That board acted independently and made decisions but the Director of Liquor and Gaming is a bureaucrat—a one-man band—making decisions. Pressure will be put on the director by vested interests to approve their applications. Such pressure was not exerted on the Liquor Administration Board. The bill will provide that bars that do not provide gaming or sell take-away alcohol will be able to obtain a special type of hotel licence or an on-premises licence if they offer entertainment to patrons. The licence will cost \$500. Toilet requirements will be determined by local councils. Patron numbers will be determined by business operators and local councils.

How many bars does the Government anticipate will apply for a \$500 licence under that new provision? I do not believe the Government has drafted this legislation without making estimates on the impact of the bill. Restaurants will be able to serve alcohol without a meal, whereas previously the rule was that they must sell alcohol with a meal. If those restaurants—not hotels or bars—sell alcohol without a meal I believe they will be bars. Restaurants serving alcohol without a meal can apply for a licence at the new authority and only a small processing fee will apply. The Christian Democratic Party is pleased that the processing fee is small because the previous \$15,000 fee prevented restaurants from affording to have musicians performing at night. The lower fee will allow musicians an opportunity to work in those restaurants.

For years John Wardle, who calls himself a working musician, has lobbied the Christian Democratic Party to provide opportunities for musicians to work in restaurants. How many restaurants does the Government anticipate will apply to serve alcohol without meals? The bill also provides for a new on-premises licence that will allow greater flexibility for a variety of businesses that want to serve alcohol. How many new on-premises licences does the Government anticipate will be applied for? Wineries will be able to charge for tastings, sell wine at approved wine shows and farmers' markets, operate a restaurant and motel, and licence a number of wineries in the same region, all under the one liquor licence. How many wineries, restaurants and motels does the Government anticipate will apply for that one licence? Boutique brewers and distillers outside the metropolitan area can now provide alcohol, charge for tastings and make cellar door sales to promote regional small business and tourism. That will provide a benefit to country areas that are suffering from the drought and revenue to businesses in the area. How many boutique brewers and distillers does the Government anticipate will apply for that licence? Restrictions placed on accommodation providers and motels selling liquor to guests will be removed by the bill. How many accommodation providers and motels does the Government anticipate will apply to sell liquor to their guests?

The point I am making is that people who say that increasing the number of alcohol outlets will not do any harm are living in the clouds. On top of that, bed and breakfast and farm stay operators will be able to legally sell alcohol to guests. How many bed and breakfast and farm stay operators does the Government anticipate will become involved in this opportunity? Finally, there will be new arrangements for surf clubs, retirement villages and so on, facilitating the availability of alcohol. Again, how many will be involved? I ask the Government to answer my questions. If it cannot provide answers today it should supply answers to the House as soon as possible. The Government has not taken into account that the number of bottle shops in the city is exploding. I understand that Coles and Woolworths have moved into this area as they see its potential for growth. So many more bottle shops will be built and opened in all suburbs.

On the positive side, the legislation does not change the standard hotel and liquor store trading hours and the hotel trading hours on Good Friday and Christmas Day, which I am pleased about. Also, there are no changes to the standard trading periods of 5.00 a.m. to midnight on Monday to Saturday and 10.00 a.m. to 10.00 p.m. on Sunday. However, the Government should consider increasing the trading hours on Monday to Sunday from 10.00 a.m. to midnight and reducing the trading hours on Sunday to encourage people to be with their families rather than in a hotel or bar. Another positive aspect of the bill is the provisions relating to community impact statements.

A community impact statement will gauge potential impacts of a new liquor licence and applications for extended trading hours. The new process will replace liquor social impact assessments. Statements will be prepared before liquor licence applications are made, and will summarise the results of consultation with local councils, police, health, Aboriginal representatives, community organisations and the public. My concern is that there seems to be a subtle shift in terminology from social impact to community impact. I hope that that does not

mean that a community impact statement will be a watered down statement. I hope that a community impact statement will concentrate on the social impacts, which is obvious from the terminology. "Community" is a vague term. I ask the Government for reassurance that it is only a matter of terminology, that there will still be a strict social impact assessment within the community impact assessment process.

Liquor accords will still be available. They are a recent development that is working successfully to ban troublemakers from licensed venues for up to six months. That is a positive step. There are liquor accords between various hotels, clubs and bars. They can make their own rules and regulations to try to reduce the harmful impacts of alcohol. As for self-exclusion and restricted areas, people with alcohol problems can self-exclude from licensed venues, as can problem gamblers self-exclude from the casino and other places. I am not sure whether self-exclusion still has as much value as the ability to restrict a person or ban a troublemaker from attending a venue for six months. Such a provision would have much more impact. Of course, it depends on the willpower of the person covered by the self-exclusion.

Often there are reports that people still do not have enough willpower to resist the temptation of liquor and gambling areas. Perhaps a rule could be made to ban a troublemaker, not simply because they are a troublemaker but because of the harmful impact of excessive alcohol consumption on their health and the harm they might do to other people. The Minister will be able to recommend to the Governor that an area in which there is chronic alcohol abuse can be declared a restricted area for a maximum of three years, with greater controls on the sale and supply of liquor. That is a valuable power. In our briefing we were told that this provision does not simply target indigenous and Aboriginal communities, whether they are in the metropolitan area or in country towns. The provision should be implemented without discrimination, whether it is an indigenous community, an Aboriginal community or a white community. If problems are occurring the area can be declared a restricted area.

There will be new offences to reduce antisocial behaviour. It will be an offence for a drunk, violent or quarrelsome person who has been refused entry to or ejected from a licensed venue to attempt to re-enter the premises or remain in the vicinity of the premises. On-the-spot fines of \$550 will apply for each offence, with maximum court penalties of \$5,500. There will also be increased penalties for underage drinking and intoxication offences. Maximum fines for supplying alcohol to minors and intoxicated patrons will increase for repeat offenders from \$5,500 to \$11,000 and/or 12 months in jail.

Maximum fines for minors caught inside licensed venues or purchasing alcohol from a licensed venue will double from \$1,100 to \$2,200. Expanded powers will be available to ban irresponsible liquor products and promotions. The Director of Liquor and Gaming will have the power to require responsible consumption of alcohol messages on promotions that involve substantial liquor discounts. Finally, in terms of the impact on existing liquor licensees and registered clubs, there will be no reduction in liquor trading hours or other licence trading entitlements for existing licensed premises and registered clubs as a result of the reforms. Previously in the House I have said—I believe the Government must face this—that alcohol is our number one social problem. That was confirmed by a Federal inquiry a few years ago. Indeed, the cover of the report stated, "Australia's Number One Social Problem: Alcohol". It is not heroin or cocaine but alcohol.

Also, the Federal Government's National Alcohol Strategy for 2006-09, which was endorsed by the Ministerial Council on Drug Strategy in May 2006, has been developed in cooperation with State and Territory governments in response to the serious impact that alcohol has on this country. In light of the National Alcohol Strategy, has this legislation been discussed at the ministerial council? Has there been any consultation with the representatives of the other States as to their response to what New South Wales is planning to do? The National Alcohol Strategy was supposed to come up with plans to reduce the serious impact of alcohol in our nation. Each year approximately 3,000 people die and about 65,000 people are hospitalised as a result of excessive alcohol consumption. The annual national cost of alcohol-related social problems is estimated to be \$7.6 billion. The Federal strategy, which this State endorsed, has four priorities: intoxication, public safety and amenity, health impacts, and cultural place and availability.

I believe that those matters should be considered in more detail with the operation of this legislation. That is leaving aside the number of people who drink and drive, the accidents on our roads, the deaths that occur and the injuries that people sustain in accidents involving a driver under the influence of alcohol. In the past week relevant reports have emerged as we have debated this legislation. An article in the *Daily Telegraph* of 29 October stated:

Sydney's anger streak has reached critical levels following another weekend of alcohol-fuelled brawls with a bar trashed and drunks battling it out across a city block.

The rising violence comes as hospital emergency departments report being inundated with as many injured patients as they would in December, considered the peak fighting season.

Increased violence is already happening on the streets. I am concerned that the legislation will pour more fuel on the fire, pour more alcohol into areas where brawling is already of concern. Another report in the *Daily Telegraph* stated:

As one police officer bluntly put it yesterday—"it was just another weekend in the city". Three violent brawls within five hours of each other involving more than 70 people.

That doesn't include the bread and butter drunken fights, which another officer described as the "usual Friday and Saturday night punch-ups".

It was probably just luck that no one was seriously injured given that a knife and metal bars were used in one bar brawl.

That is a sample of the daily reports of alcohol-related violence in the city. The legislation we are debating will increase dramatically the number of alcohol outlets in the city. The impact of the legislation is unknown, and that is why I will support the Greens proposed amendment to have the legislation independently reviewed by the Ombudsman, rather than have the Government gloss over some of the problems that may occur or be influenced by revenue from taxation and other charges and not be as upfront as it should be. The Salvation Army has produced a valuable report entitled "Tackling Social Issues", which I commend to all members. Many female members of the House often refer to the impact of alcohol in domestic violence. Under the heading, "The link between alcohol and violence" the report states:

Alcohol is a significant contributing factor to violence in Australia despite strategies to combat the problem. Researchers have estimated that 47% of all those who commit violent crimes, and 43% of all victims of these crimes, were drunk prior to the event. A 2006 study confirmed areas with large clusters of pubs and licensed premises have higher crime rates, experiencing almost twice as many alcohol-related problems as areas with lower concentrations of licensed premises. Although both men and women are affected by alcohol-related violence, men under 34 make up the majority of hospitalisations for alcohol-caused assaults, with a similar profile found in alcohol-related road injuries.

The above statistics would strongly suggest that one way to reduce violent crime is to reduce alcohol consumption. By limiting alcohol intake, people can make a big difference to their communities.

I add to that: Reduce alcohol consumption by reducing alcohol outlets. The Christian Democratic Party will not oppose the bill. We support the positive aspects of the bill although we have reservations about its negative aspects. We will vote in favour of the bill.

The Hon. GREG PEARCE [6.23 p.m.]: The Opposition will move an additional amendment, which, I apologise, was a little late. The amendment is to correct an oversight. Clause 36 (5) relates to sippers or coldies functions in surf lifesaving clubs. The clubs perform a very valuable and important role in the community. The volunteer members of surf clubs are of great value to the whole community. The very vigilant member for Pittwater, Rob Stokes, noted that the provision in the draft bill provides for those functions to be held on any Saturday, Sunday or public holiday. Rob Stokes, himself a fine volunteer surf lifesaver, pointed out that most of those functions take place on Friday nights. The proposed amendment will insert "Friday" into clause 36 (5) (b) so that the nights on which surf clubs hold their functions will be covered. It is a commonsense amendment that will correct an oversight. A number of surf clubs, such as Queenscliff, North Narrabeen, Bilgola and Mona Vale, which is celebrating its eighty-fifth anniversary this year, will benefit from that amendment.

The Hon. PENNY SHARPE (Parliamentary Secretary) [6.25 p.m.], in reply: I thank honourable members for their detailed and thoughtful contribution to the debate on the Liquor Bill 2007 and cognate bills. The liquor licensing reforms provided in the bills will benefit industry and the community for many years to come. Reforms such as the new general bar licence, changes for wine makers, and more flexible licensing for a range of tourism and accommodation providers have received strong support in the community. There is a widespread sense of expectation about these reforms. There is widespread support for these reforms from the community, and, I especially acknowledge, from the live music industry.

The bills will ensure that the liquor and hospitality industries can meet the needs of residents and tourists throughout New South Wales. The bills will ensure also a greater focus on reducing alcohol-related harm. They provide the necessary tools for licensees and regulators to work with the community and promote a culture of responsible service and consumption of alcohol. I will respond briefly to some issues raised by honourable members. The Leader of the Opposition referred to the police linking program. The Government understands that there may be some concerns by clubs and hotels about the linking program.

It is important to understand that the data collected for the program is for New South Wales Police Force intelligence purposes only. The data received by police cannot be used as evidence in courts or in relation

to any application before the present Licensing Court or the Liquor Administration Board. Reverend the Hon. Fred Nile made general comments on his concerns about the increase in sales of alcohol and whether that would be linked to the increase in consumption. It is not possible at this time to determine whether the proposed reforms will result in an increase in the number of licensed premises. The figure of 4,000 new venues that has been suggested does not appear to have any basis in fact. However, there is no clear data that would support a proposition that an increase in the number of liquor outlets would result in an overall increase in alcohol consumption.

According to data maintained by the Liquor Administration Board the total number of hotels, liquor stores, clubs and restaurants has increased by approximately 26 per cent since 1996. During that period the amount of alcohol consumed per person has not changed significantly. According to the Australian Bureau of Statistics, and based on the amount of alcohol available for consumption in Australia, since 1996 the estimated apparent per person consumption of alcohol is steady at just under 10 litres.

In response to an issue raised by Ms Lee Rhiannon and Reverend the Hon. Fred Nile regarding community impact statements, there is a potential for bars of all sizes that focus on selling alcohol to have an impact on the local community through noise, antisocial behaviour and problems associated with intoxication and irresponsible service of alcohol. Therefore, applications for the new general bar licence will be subject to the new community impact statement process.

Local councils can also consider some of the issues that will be considered as part of that process during the planning approval process. As a local council member in another part of my life, in the council I was involved with, and many others, I know that the planning approval process is quite extensive. The Government will try to align those two processes as much as possible to reduce any duplication. However, there are alcohol-related issues that are not considered during development applications, such as the conditions applying to a liquor licence and how alcohol is sold and supplied. The community impact statement will assist the casino, liquor and gaming control authority in properly considering an application in this regard. The Government appreciates that the regulations will be important to the operation of the new liquor licensing regime. The proposed liquor regulation cannot be finalised at this time as the regulation-making powers upon which it will rely will not be finalised until the liquor reform bills are considered and finalised by this Parliament.

The new liquor regulation will deal with similar matters to the existing regulation. While they are important matters, they are generally procedural and administrative in nature. A draft regulation indicating the proposed thinking in this regard has been made available. Similarly, a document outlining the operation of the proposed community impact statement has also been provided. As the new liquor regulation will be a principle statutory rule, the Subordinate Legislation Act requires that it be subject to the full regulatory impact statement process. The Government has indicated that this will include wide-ranging consultation with stakeholders who will be closely involved. We need to consult with relevant agencies before the regulation is finalised.

Before going into Committee I indicate the Government's position in relation to some of the proposed amendments. Ms Lee Rhiannon foreshadowed an amendment to the provisions relating to small bars in an attempt to cap the number of people in those places. We need to be careful in this area. In the Government's view, limiting bars to a certain number might make them economically unviable. The Government indicates at this stage that it does not propose to support that amendment. I refer, next, to an amendment to restrict the ownership of bars. Why would we restrict the ownership of only small bars and not include, for example, hotels, restaurants, clubs and retail licences? Similarly, the Government does not propose to support that amendment.

Members of the Liberal Party foreshadowed an amendment relating to surf lifesaving clubs. The Government will support that amendment. The Government accepts the argument that patrons of surf lifesaving clubs attend those clubs on Friday nights and it would be ridiculous not to allow them to continue to consume alcohol. Similar provisions relating to Saturdays, Sundays and public holidays have been in place for a number of years and those provisions have not caused any problems. These amendments will be considered in detail in the Committee stage. I thank everyone for their contributions to debate on these bills and commend them 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.

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

[The President left the chair at 6.32 p.m. The House resumed at 8.00 p.m.]

LAW ENFORCEMENT AND OTHER LEGISLATION AMENDMENT BILL 2007

Message received from the Legislative Assembly returning the bill with an amendment.

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

WORLD YOUTH DAY AMENDMENT BILL 2007

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

Motion by the Hon. Tony Kelly agreed to:

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

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

LIQUOR BILL 2007

CASINO, LIQUOR AND GAMING CONTROL AUTHORITY BILL 2007

MISCELLANEOUS ACTS (CASINO, LIQUOR AND GAMING) AMENDMENT BILL 2007

In Committee

Parts 1 and 2 [Clauses 1 to 9] agreed to.

Ms LEE RHIANNON [8.08 p.m.]: I move Greens amendment No. 1:

No. 1 Page 18, clause 16. Insert after line 3:

- (5) The authorisation conferred by a general bar licence does not apply if:
 - (a) the licensee holds more than 10 general bar licences, or
 - (b) a close associate of the licensee holds more than 10 general licences or is the close associate of more than 10 persons who hold a general bar licence.

This amendment is designed to remove the capacity of the bill to create big business franchised small bars or to allow ownership to be consolidated throughout the State. Presently the general bar licence does not limit the number of licences an individual company can hold. I would hope that members would agree with the necessity to have a limit. We believe the status quo does not meet the Government's stated aim for this category of licence, being to increase the diversity of drinking venues. When the community imagined small bars, the dream did not involve Westfield, Woolworths or Coles muscling in on our shopping centres and main streets to set up lots of bars, obviously to seek to make profits from selling alcohol.

Irrespective of what people think about how the debate on small bars has unfolded, surely we would agree that there should be diversity, not uniformity stemming from unlimited franchising. Already there is a consolidation of ownership of pubs in corporate hands. An analysis of the *Sydney Morning Herald* reports that of the 2,000 hotels in New South Wales, almost 400 are owned or operated by 43 groups, each owning at least four hotels. Woolworths and Coles alone own more than 450 hotels between them. That is the position at present. Surely we want to put measures in place to ensure that we gain diversity from venues for local communities, rather than just more beer barns.

I have moved the amendment to limit the number of general bar licences that a licensee or a close associate of a licensee can hold to no more than 10 general bar licences. The Greens believe that such an amendment will support small businesses and increase diversity. I draw the attention of honourable members to

subparagraph (b) of the amendment. It was put to me that when a limit is imposed on a licensee, the licensee's mother, auntie, son or wife ends up also having a number of licences. Subparagraph (b) of the amendment prevents that from occurring. Clearly the amendment is tight and delivers the outcome of removing the capacity of the legislation to create large businesses that will be able to franchise small bars. If the amendment is accepted, the legislation would also deliver diversity—an important part of the bill's objectives.

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [8.11 p.m.]: The Government does not support the amendment. We believe that the Liquor Bill has undergone reasonable consultation. We do not believe there is any need to change the bill.

The Hon. TREVOR KHAN [8.11 p.m.]: The Opposition does not support the amendment. It would be safe to say that in the view of the Opposition, the amendment is a clumsy attempt at best to achieve an outcome. Notwithstanding the best intentions of the Greens, any accountant or lawyer with even passable experience would be able to overcome such an amendment in very short order. In those circumstances its effect or outcome would be minimal at best. For those reasons, the Opposition does not support the amendment.

Question—That Greens amendment No. 1 be agreed to—put and resolved in the negative.

Greens amendment No. 1 negatived.

Ms LEE RHIANNON [8.13 p.m.]: I move Greens amendment No. 2:

No. 2 Page 19, clause 17. Insert after line 5:

(7) **General bar licence—maximum number of patrons permitted on licensed premises**

Liquor may not be sold or supplied on the premises to which a general bar licence relates if the number of patrons on the premises exceeds 120.

Greens amendment No. 2 relates to the general bar licence. As members would be aware, the bill currently states no maximum for the number of patrons permitted in licensed premises. The Greens believe that a maximum should be set. In this State where a powerful pubs and hotels industry reigns and where the Government has shown itself to be very flexible when it comes to granting liquor licences and the administration of liquor laws, the Greens argue that a line should be drawn in the sand to prevent the State from permitting more and more bars to open that do not fit in with the imagined small bar.

I strongly contend that the bill should provide limits on the number of hotels and the size of bars because so much of the change associated with this legislation has been sold on the basis of diversity that will be created by small bars, while no limit to the number of patrons has been set. In Western Australia the limit on the number of patrons is 120. The member for Sydney's original small bars bill stipulated 120 patrons. I strongly contend that placing a limit on the number of patrons is an advisable and responsible way to proceed. I believe that the amendment is in keeping with strong community interest that has been expressed over many months relating to the need for Sydney to develop a culture around small bars.

Reverend the Hon. FRED NILE [8.14 p.m.]: I ask the Minister to provide the Committee with a definition of a small bar. If the definition does not stipulate a limit on the number of patrons, does it have a limit on the area of the bar in square metres? Could someone open a barn or a very large building in Pitt Street and call it a bar? Is there some restriction on the size of a building or the area used by patrons in a bar? The purpose of the amendment is to limit the number of patrons to 120, but the same effect may be achieved in another way by stating that a small bar is limited to a specific size that will accommodate, say, 50 people.

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [8.15 p.m.]: My understanding is that anyone who wants to open a small bar or any bar in the future will have to undertake a development application approval process, and that is a matter for councils. There is no definition of a small bar in the bill as far as I am aware. The Government does not support the amendment. Currently there are no restrictions on hotels, restaurants, clubs or retail licences, et cetera. There is no evidence that a number of licences are owned by one entity. The Government does not support the amendment.

The Hon. TREVOR KHAN [8.16 p.m.]: The Coalition does not support the amendment, for reasons similar to those expressed by the Hon. Tony Kelly.

Question—That Greens amendment No. 2 be agreed to—put and resolved in the negative.

Greens amendment No. 2 negatived.

The Hon. TREVOR KHAN [8.18 p.m.]: I advise the Committee that the Opposition will not move its amendment as circulated on sheet C2007-070.

Part 3 [Clauses 10 to 39] agreed to.

Parts 4 to 10 [Clauses 40 to 152] agreed to.

Ms LEE RHIANNON [8.20 p.m.]: I move Greens amendment No. 3:

No. 3 Page 121. Insert after line 2:

162 Review by IPART of operation of Act

- (1) A review of the operation of this Act is to be carried out by IPART.
- (2) In particular (but without limitation), the following matters are to be the subject of the review:
 - (a) the way in which this Act is being enforced, including in relation to trading hours, and the rate of prosecutions for offences under this Act,
 - (b) the effectiveness of community impact statements,
 - (c) the effectiveness of the harm minimisation measures under this Act,
 - (d) the impact on local residents, including the incidence of noise and disturbance complaints,
 - (e) the level of alcohol-related violence and hospitalisation,
 - (f) the number and distribution of licensed premises, including the clustering of licensed premises in certain areas,
 - (g) the impact on the live music industry.
- (3) For the purposes of carrying out the review, the IPART may require the Authority, the Director and the Commissioner of Police to provide information about the operation of this Act.
- (4) A report on the review is to be provided to the Minister as soon as practicable after the fourth anniversary of the date of commencement of this section.
- (5) The report may identify, and include recommendations to be considered by the Minister about, amendments that might appropriately be made to this Act.
- (6) The Minister is to lay (or cause to be laid) a copy of the report furnished to the Minister under this section before both Houses of Parliament as soon as practicable after the Minister receives the report.
- (7) If a House of Parliament is not sitting when the Minister seeks to lay a report before it, the Minister may present copies of the report to the Clerk of the House concerned.
- (8) The report:
 - (a) on presentation and for all purposes is taken to have been laid before the House, and
 - (b) may be printed by authority of the Clerk of the House, and
 - (c) if printed by authority of the Clerk, is for all purposes taken to be a document published by or under the authority of the House, and
 - (d) is to be recorded:
 - (i) in the case of the Legislative Council, in the Minutes of the Proceedings of the Legislative Council, and
 - (ii) in the case of the Legislative Assembly, in the Votes and Proceedings of the Legislative Assembly, on the first sitting day of the House after receipt of the report by the Clerk.

The amendment suggests that the operation of the Act should be reviewed by the Independent Pricing and Regulatory Tribunal. The bill contains the standard clause about conducting a review after five years. That is a fine aim and such reviews can be most useful. However, the reviews are conducted in-house, with limited community consultation. They are certainly not independent, far ranging or thorough enough. The Government sometimes fails even to table the report of the review. This occurred with the 2004 review of the privacy Act, the report of which is still outstanding. Despite a legislative obligation to table the report on 30 November 2004, it has never happened. So members should not be lulled into a false sense of security and think because the bill contains a standard review clause the review will happen automatically.

Even if a review is conducted, it will not be sufficient to examine the far-reaching provisions of the bill. I argue that this is not proper law reform. We are going through the motions so that we appear to be monitoring and reviewing laws, but it is not the real thing. That is not good enough, considering the enormity of these legislative changes. The Greens believe five years is too long to wait to gauge the impact of the wide-ranging new laws. An undesirable liquor culture could become entrenched in that time, making it more difficult to clean up. The amendment proposes that the Independent Pricing and Regulatory Tribunal monitor the operation of the laws four years after they commence. The tribunal has a range of powers that we believe would be most beneficial when reviewing the legislation.

The Greens amendment sets out matters that the Independent Pricing and Regulatory Tribunal should consider in its review. I draw members' attention to this part of the amendment, which clearly differentiates our review from the Government's standard review as proposed in the bill. A standard review basically checks whether laws are working according to the aims and objectives set out in the legislation. But our amendment establishes terms of reference and the framework for a much more detailed review. We believe the review should consider the way in which the Act is being enforced, including issues such as trading hours and the rate of prosecutions for offences under the Act, and the effectiveness of community impact statements and harm minimisation measures. Those factors go to the heart of the bill. The bill effects a huge change from social impact assessments to community impact statements, which are quite different in their scope and the information they will provide. We must put in place mechanisms that enable us to determine whether the change is reasonable because we cannot be sure of that tonight.

The Greens also believe the review's terms of reference should include an examination of the impact of the laws on local residents, including the incidence of noise disturbance complaints; the level of alcohol-related violence and hospitalisation; the number and distribution of licensed premises, including the clustering of such premises in certain areas; and the impact on the live music industry. These liquor laws will be arguably extremely influential in moulding how our State manages alcohol consumption. It would be unwise for us to miss out on the opportunity to conduct a far-ranging review of their operation. The precedent has been set; we do not always accept the standard review. For example, we did not go with a standard review of the Police Powers (Drug Detection Dogs) Act 2001. In that instance the House decided that a far more extensive review should be conducted, which delivered valuable information. Obviously a review in no way undermines the bill; it is simply a tool that allows us to see whether the legislation is delivering for the community in the way that we believed and hoped. I commend the amendment to the Committee.

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [8.26 p.m.]: It is not the role of the Ombudsman or the Independent Pricing and Regulatory Tribunal to review the operation of a government Act. The bill provides for a statutory review of the Act after five years, or sooner if the Government decides. This is increasingly the case with Acts of Parliament, and is appropriate. The New South Wales Ombudsman is not a social policy making body or an independent expert on social policy. The Ombudsman is the defender of the people of New South Wales and is concerned with the proper operation of bodies such as the police. It is not the role of the Ombudsman to review or oversee social policies, such as the Liquor Act.

It is the role of the Minister, the Government and Parliament to commission an expert outside body to review government entities and outcomes from time to time. These reviews and reports are used to inform the democratic process in New South Wales. The Ombudsman plays an important role in this process, and the Government relies on this expert advice in his area of expertise. The Liquor Act 2007 should not limit the Government, four years into the future, to using the Ombudsman to review this complex set of policies. There may be room for review by other independent bodies. We should not be imposing expensive, and possibly unnecessary, reviews on the taxpayer or New South Wales businesses. It is the aim of the Liquor Act 2007 to streamline liquor licensing while maintaining an appropriate level of regulation and enhancing transparency of licence applications by making them public. The Government does not support Greens amendment No. 3.

Reverend the Hon. FRED NILE [8.27 p.m.]: The Christian Democratic Party has sympathy for Greens amendment No. 3. We have a revised copy of the amendment that has replaced references to the "Ombudsman" with "IPART". I wonder whether the Government has a copy of the revised amendment because the Minister referred to the Ombudsman in his response.

The Hon. Tony Kelly: I referred to the Ombudsman or the Independent Pricing and Regulatory Tribunal at the beginning of my remarks.

Reverend the Hon. FRED NILE: I would prefer the Ombudsman to conduct any review, as that office has conducted some valuable reviews of various activities in the past. The amendment refers to matters that will affect the operation of the New South Wales Police Force, such as the rate of prosecutions and the level of alcohol-related violence and hospitalisation. I am sure that in time we will read newspaper stories that quote senior police officers as saying that they are having trouble with more alcohol-related violence as a result of the bill. We should be able to get the facts and figures about such incidents via a professional review. Simply stated, the Minister will review the Act to determine whether the policy objective of the Act remains valid. The Minister indicated that outside experts will conduct the review, although that is not made clear in the bill. The Christian Democratic Party sees some value in this amendment, and I gathered at one stage that the Opposition and the Government also had some sympathy for it.

The Hon. TREVOR KHAN [8.29 p.m.]: The Opposition does not support the amendment. In relation to the various components of the review, the Bureau of Crime Statistics and Research regularly collects statistics on the very matters referred to. At least in that regard, statistics are regularly available to members of this House. It is self-evident that every member of this Parliament has a responsibility to ensure that legislation works properly, and if legislation is not working well, we can avail ourselves of procedures to have it brought back before the House for review and amendment if necessary. In that regard, the amendment seems to be surplusage to what is required, and for that reason it is not supported.

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

The Committee divided.

Ayes, 5

Dr Kaye
Reverend Nile
Ms Rhiannon
Tellers,
Mr Cohen
Ms Hale

Noes, 25

Mr Brown	Mr Lynn	Mr Tsang
Mr Catanzariti	Mr Mason-Cox	Mr Veitch
Mr Colless	Ms Parker	Ms Voltz
Mr Costa	Mrs Pavey	Mr West
Ms Cusack	Mr Pearce	Ms Westwood
Ms Ficarra	Mr Primrose	
Miss Gardiner	Ms Robertson	<i>Tellers,</i>
Mr Kelly	Ms Sharpe	Mr Donnelly
Mr Khan	Mr Smith	Mr Harwin

Question resolved in the negative.

Greens amendment No. 3 negatived.

Part 11 [Clauses 153 to 162] agreed to.

Schedules 1 to 3 agreed to.

Title agreed to.

TEMPORARY CHAIR (The Hon. Kayee Griffin): With the consent of the Committee I propose to deal with the remaining bills by putting the following question: That the clauses, schedules and title be agreed to. There being no objection, I will deal now with the Casino, Liquor and Gaming Control Authority Bill 2007.

Clauses, schedules and title agreed to.

TEMPORARY CHAIR (The Hon. Kayee Griffin): I will now deal with the Miscellaneous Acts (Casino, Liquor and Gaming) Bill 2007.

Clauses, schedules and title agreed to.

Liquor Bill and cognate bills reported from Committee without amendment.

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

COMMISSION FOR CHILDREN AND YOUNG PEOPLE AMENDMENT BILL 2007

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

Motion by the Hon. John Hatzistergos agreed to:

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

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

LAW ENFORCEMENT AND OTHER LEGISLATION AMENDMENT BILL 2007

In Committee

Consideration of the Legislative Assembly's amendment.

Schedule of amendment referred to in message of 5 December 2007

Page 4, Schedule 1.1 [4] (proposed section 87N (2)), lines 21 and 22. Omit "Superintendent or from a police officer who holds the position of Local Area Commander". Insert instead "Inspector".

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Justice) [8.45 p.m.]: I move:

That the Committee agree to the Legislative Assembly's amendment.

The Hon. Robert Brown has discussed with my colleague the Minister for Police his concerns that a senior officer, at a higher rank than inspector, should be available on a 24-7 basis, particularly in the Sydney metropolitan area. I understand the member's concerns and appreciate the constructive discussion he has had on this issue. I am happy to place on the record the Government's assurance that officers of a rank higher than inspector are available at all times, including on a 24-7 basis, to deal with serious policing situations.

The Government believes that an inspector should have the legal ability to authorise the use of proposed section 87N because a duty officer or the duty operations inspector will be best placed to assess the information coming in and the resources required, and they are immediately contactable. Let us be clear: the delay in seeking approval from a superintendent has the potential to be significant. If there is a delay in using emergency powers, the situation could degenerate, increasing the risk of police officers and members of the public being injured. A letter circulated by the Police Association stated:

By definition these decisions must be made without undue delay to maximise the opportunity for early police intervention preventing a riot from occurring or minimising its intensity. Delays caused by the requirement to contact a Superintendent (Local Area Commander) are unnecessary and experience tells us this process is often time consuming when the officers are off duty or attending to other functions outside their Command.

These are extraordinary powers to be used when a riot is threatened. They will not be used lightly. The Opposition seems to think that an inspector will authorise the use of powers to prevent an emerging riot and then

not alert anyone to the fact that they have identified an emerging riot situation. An inspector who authorises the use of these powers will be required to seek an application for an authorisation under part 6A as soon as possible. In addition, police standard operating procedures will state that the inspector should immediately inform the relevant local area commander and regions operation manager and, given a riot situation has been identified as emerging, the commander of the public order and riot squad to alert them to the use of these powers.

Furthermore, the Opposition is plain wrong in its assertion that a superintendent or local area commander is best placed to make this decision. Duty inspectors and the duty operations inspector who coordinates police radio are not only trained to handle such important matters, but are immediately and directly available by radio at all times. Anyone who acts up in the position of inspector must be a permanent sergeant of considerable experience, and have been assessed as capable of performing the important duties of a police inspector.

The Hon. Michael Gallacher: Point of order: Is the Minister still quoting the letter from the Police Association, or are these the Minister's own words?

The Hon. JOHN HATZISTERGOS: I have ended the quote from the Police Association. Let me return to what the Police Association thinks. It further stated:

Inspectors ... are appointed to their positions following considerable years of operational experience. On average it takes some 16 years of service to be appointed to Sergeant rank and a minimum of a further 2 years on that rank before promotion to Inspector can be considered. They are paid salaries commensurate with their responsibilities and accountabilities ranging from \$96,508 to \$122,171 (as of 11 January 2008). These officers are more than capable of making the decisions to invoke the powers contemplated in the Act and being accountable for such decisions.

The Government believes our provisions strike an appropriate and effective balance between the need to ensure these powers are used correctly and enabling police to act immediately in an emerging riot situation.

The Hon. ROBERT BROWN [8.51 p.m.]: It is interesting that the letter that the Minister referred to, of which I understand the Leader of the Opposition has a copy, which was addressed to me, I have not yet received.

The Hon. Michael Gallacher: I drafted your reply, though.

The Hon. ROBERT BROWN: Thank you very much. However, the Minister is correct. A delegation from the Police Association, and a senior serving officer with the Minister approached me today and gave me their version of what was wrong with the amendment that I voted on last night. I was not the only person who voted down the bill, of course. Their position was in line with what the Minister has reported as being in the circulated letter. That is, they felt that the Government's original position was the correct one. They were happy that the safety of their members and the safety of the public were better protected by having the fastest possible means of response to a threat of a riot. If that meant an inspector would make the decision, the inspector would call out the dogs, so to speak, and all the facilities and resources necessary to handle an imminent riot—even if it did not eventuate—at least police safety would be assured.

Obviously, we do not want false alarms, but the officers who spoke to me today convinced me, in line with the points they had given to the Minister about the seniority of the inspector making that decision, that the person would be trained and capable of making such decisions. I was still not convinced of the difference between the local area commands in the greater Sydney metropolitan area and the commands in the bush. One senior officer who spoke with me was the duty officer at Wilcannia during some disturbances in the bush. He did not use the word "riots". The officer agreed that there was a difference in the requirements for the Sydney metropolitan area.

I put to the Minister that I needed some assurance, recorded in *Hansard*, that in the Sydney metropolitan area there would be a greater effort to ensure that mistakes are not made. I was convinced by the arguments of the Police Association representatives and the Minister. Not by way of excuse, I pointed out to them that based on debate in the House presented by the Minister representing the Minister for Police, and the Leader of the Opposition, who is an experienced police officer, when I made the decision to vote the way I did it was 2.30 in the morning. Perhaps that is a salutary lesson for the Government: decisions are not best made at 2.30 in the morning. Fellow members, we have to be a bit smarter about that. My position is now clear. I support the original position of the Government. I cannot support the Opposition's intention to vote against the change.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [8.55 p.m.]: At five to nine on a Wednesday night I stand by the decision that I put to the House at 2 o'clock this morning. I do not move away from that. I am not having a go at the contribution of the Hon. Robert Brown. Given the advice that I recently received from the Clerks in terms of the proper process in relation to this matter, I move:

That the motion be amended by omitting the word "agrees" and inserting instead the words "does not agree".

I predict that in some part of Sydney there will be a call for an emergency power to be invoked. It will fall to the responsibility of an inspector. The inspector will talk to the duty operations inspector, colloquially known as the DOI, who will make a decision on the telephone about the response. Within seconds of concluding the conversation with the duty operations inspector the next phone call made by the inspector will be to the local area commander. Whether it is 1 o'clock in the afternoon or 1 o'clock in the morning, that conversation will take place.

I now raise the inability of contacting the local area commander. In this day and age is the Government seriously telling us that local area commanders, of superintendent rank and above, who are responsible for massive tracts of Sydney cannot be contacted? With mobile phones and pagers and concerns about terrorism and crime in the current climate, are we unable to contact local area commanders? Be that as it may, if the local area commander cannot be contacted the next phone call would be made to the regional commander. In most hierarchies the phone calls go down the line, and as they go down the line they get louder, but in this context phone calls in the New South Wales Police Force would go up the line.

I acknowledge that members opposite are seeking to interject. When a police officer goes down as a result of an incident, I do not care where in the world the local area commander is; he would know within minutes that one of his men or women has gone down. And exactly the same chain of events would occur here. The concern I had last night, and continue to have today, is that after the inspector makes the call to the duty operations inspector—and I am not denigrating the experience or role of an inspector—his next conversation is with either the local area commander or the regional commander. What happens when they say, "Whoa, hang on, you have just called me to tell me that Armageddon has just been unleashed in my area, and I find out about it after you have made the call!"

We are not talking about despatching two or three cars to deal with half a dozen clowns on the side of a road. As the Minister rightfully said, we are talking about extraordinary powers that need to be dealt with in an extraordinary way. When the duty operations inspector is told, "We have a riot," that is far different from half a dozen yobbos at the local pub or in the car park of a hotel. We are talking about the potential for a lockdown of suburbs or tracts of suburbs and streets. We now have police powers that we had never seen before the Cronulla riots. I guarantee that at the moment the duty operations inspector and the inspector reach that decision, out will come the riot squad, out will come the dog squad, fuel will be pumped into Polair 1, 2, and 3, and whatever else they can get into the air.

We know these things from experience and from what we have observed. There is no pulling back. Under this system the local area commander, the person responsible and accountable for an entire area, will get a call after the horse has bolted. In my view—and I continue to hold this view—an inspector could make the decision but in view of the resources that are able to be deployed it is far more appropriate for a local area commander or, in his absence, a regional commander to deploy those resources. It could be said that it would take a long time to deploy all those resources. It would take some time to ring the boss of the dog squad, to get the boss in control of surrounding suburbs to send his patrol cars to any incident, or to get the helicopter controller to wake up his pilots and get them in the air in half an hour.

I guarantee that the first phone call that would be made after that would be to a local area commander. However, my concern is that the horse has already bolted. Last night in debate on this bill I referred to intoxicated people and to the reasonableness of searches. This legislation is untidy because it does not differentiate between riots such as those that occurred at Cronulla and riots that involve our indigenous people—riots that occur every weekend in parts of western New South Wales but about which we do not hear because no-one cares about our indigenous people. Very little media attention is given to these riots. If members doubt what I am saying they should walk around the back of any police station in western New South Wales and look at the quality of police vehicles. Those vehicles look as though they have been to hell in a hand basket, or through a very big hailstorm. They are covered in dents and the windows are smashed.

Police officers would be able to tell members war story after war story about the battles that occur every weekend in country New South Wales. Those riots are different from the riots that are referred to in the

context of this legislation. This legislation does not distinguish between the riots that occurred in Cronulla and the riots that many country towns contend with. Those riots might involve only 150 people in the main street of a town as opposed to the thousands of people who rioted in Cronulla, but there is no differentiation in the legislation: one case fits all. I am concerned about the appropriateness of this legislation.

I reiterate the position that I enunciated last night. I have also met with members of the Police Association. I emphatically resent the constant position that is being put by Government members. I do not intend to have a go at Minister Hatzistergos, but he and other Ministers have obviously been given the needle. Opposition members had the temerity to say, "Hang on a moment; let us think about this." We did not oppose the legislation last night and we did not oppose the legislation on 15 December 2005. In fact, we were prepared to sit down with the Government and work with it to ensure that the legislation was passed. The sense of urgency that was apparent on 15 December 2005 has gone and this Government is now playing politics. There are no votes to be gained from having either a superintendent or an inspector in charge of these riots and no marginal seats will be gained in these areas as a result.

The Government must ensure that police who have to make these decisions are in a much stronger position to do so. Today when I discussed this issue with a few backbench members I suggested that it would have been more practical for the Government to take into account the contribution that was made in this Chamber last night and to say, "Let us sit down with Opposition members and establish whether we can find some common ground." Opposition members are not opposed to this proposal; they are just trying to do what they think is right to strengthen the position of police in this decision-making process. All we got was two pages of garbage from the Minister in the other place. He attacked me and other Opposition members and accused us of being anti police—the same sort of vitriol that we get every day in this Chamber when we say, "Just stop for a moment. This has gone a bit too far. There might be some middle ground."

I resent that approach, which I believe undervalues the contribution of Minister Hatzistergos in attempting to show some leadership on law and order issues. The Minister in the other place should not be allowed to churn out press releases in an attempt to obtain a political advantage from something that is not a political issue. At the end of the day Opposition members and Government members should sit down and talk about these issues in an attempt to reach a solution. The Government took the opportunity to speak to one of the members on the crossbenches and it might well have spoken to others, but I and other members of the Opposition were not extended that same courtesy and we were not invited to speak to senior members of the police.

At the end of the day we are trying to put forward what we believe to be a solution that will strengthen the position of police when making decisions such as the decisions they had to make in Cronulla—an incident that was reported in newspapers and on television programs throughout the world. All we tried to do was to give officers who are under such pressure a bit more support.

Reverend the Hon. FRED NILE [9.05 p.m.]: The Christian Democratic Party supports the amendments that were moved in the other place. I remember the Minister stating that the original legislation, which was supported by all members, did not make any reference to an inspector; it referred only to a police officer. These amendments will ensure that such decisions will now be made by an inspector, and that will result in speedy responses to any emergency.

Ms SYLVIA HALE [9.06 p.m.]: I do not for one moment pretend to have the expertise of the Leader of the Opposition, who put forward a persuasive case about how any such move would be implemented throughout the police hierarchy. When this legislation is invoked it will have serious repercussions for members of the public because, as has been said, whole areas will be locked down, cars will be searched and potentially people will be searched. When there are such considerable ramifications for members of the general public, who may in no way be involved in any situation that is developing, it is important to have people with cool heads making the decisions—people who might not be immediately on the spot but who have a wealth of experience and authority at their disposal. As the Leader of the Opposition said, it is unbelievable for anyone to suggest that in this day and age those people would not be available almost instantaneously. The public and police officers would be well served by having someone of the rank of superintendent or above involved directly in any lockdown or similar situation.

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Justice) [9.08 p.m.]: I will respond briefly to the contributions that have been made. I do not take this issue lightly. Unfortunately, the Leader of the Opposition made comments that reflected on my colleague the Minister for Police in another

place. Quite frankly, they do him no credit. In reality, from time to time members in this place take a different position to the position that is taken by members of the Legislative Assembly. During this session a number of amendments might have been moved in this place that the Government was not happy with but which the Legislative Assembly accepted.

That situation has arisen on other occasions, but in this instance the importance and significance of the change that the Leader of the Opposition has proposed, and the concerns that the police have about those changes, have been reflected in our opposition to bringing this matter back for deliberation. I think the Minister for Police responded entirely properly to the matter articulated by the Government earlier in debate. The point Ms Sylvia Hale just made does not have much substance. She said that someone divorced from the incident—a cool head—should be making these decisions, that is, an inspector.

At the moment the legislation states that a police officer makes that decision. We are taking that decision back one level and saying, "The inspector will be making the decision." People are now saying, "Let us have a superintendent," who might not necessarily be available at that time. We always know there is a person of the rank of inspector who is in a position to make that decision at the time. I make the point also that, notwithstanding who is contacted, the person who will ultimately have to authorise these particular provisions is the assistant commissioner. That requirement is set out in the Act and must occur within a three-hour time limit.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 16

Mr Cohen	Ms Hale	Mrs Pavey
Ms Cusack	Dr Kaye	Ms Rhiannon
Ms Ficarra	Mr Khan	
Mr Gallacher	Mr Lynn	<i>Tellers,</i>
Miss Gardiner	Mr Mason-Cox	Mr Colless
Mr Gay	Ms Parker	Mr Harwin

Noes, 19

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

Pairs

Mr Ajaka	Mr Della Bosca
Mr Clarke	Mr Obeid

Question resolved in the negative.

Amendment negatived.

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

Motion agreed to.

Legislative Assembly's amendments agreed to.

Resolution reported from Committee and report adopted.

Message forwarded to the Legislative Assembly advising it of the resolution.

HEALTH LEGISLATION AMENDMENT BILL 2007

Bill received, and read a first time and ordered to be printed on motion by the Hon. Eric Roozendaal.

Motion by the Hon. Eric Roozendaal agreed to:

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

Second reading set down as an order of the day.

WORLD YOUTH DAY AMENDMENT BILL 2007**Second Reading**

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [9.21 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.

New South Wales has a well-deserved reputation for successfully hosting large-scale international events. The 2003 Rugby World Cup, and the Sydney 2000 Olympic Games and Paralympics Games, were recognised as great successes and enhanced the reputation of New South Wales and Sydney. In July 2008 Sydney will again be the centre of international attention when it hosts World Youth Day 2008. His Holiness Pope Benedict XVI named Sydney as the host city for World Youth Day 2008 in 2005. The Catholic Archdiocese of Sydney, with the support of the New South Wales and Commonwealth Governments and the city of Sydney, led the delegation that secured this event.

World Youth Day is a series of international and Australian events aimed at young people aged between 16 and 35 years from around the world, culminating with a vigil and mass to be celebrated by the Pope at Randwick racecourse on 20 July 2008. It is estimated that up to 500,000 people will attend the papal mass, many of them from overseas. This is a unique event. It is larger in scale than the Olympics, with higher international numbers participating in the event. The event is unticketed so planning is based on crowd modelling and analysis of previous World Youth Day events as well as known registrations of pilgrims.

Analysis of previous World Youth Days indicates that the staging of such events is logistically challenging. The crowd will be fluid and spontaneous. The event will comprise various activities across the Sydney central business district and metropolitan area over the course of a week. There will also be large movements of people into and out of Sydney before and after the event. Previous World Youth Days in other cities have highlighted how challenging it is to manage an event of this nature. The New South Wales Government wants to demonstrate that an event such as World Youth Day can be well managed. I believe that New South Wales has the necessary skills and experience to do this.

The New South Wales Government is committed to ensuring the success of the event and managing its overall impact on Sydney, the community and the taxpayer. The bill will ensure that the New South Wales Government is able to meet this commitment and that the necessary support and services will be available to assist in the management and planning of the event.

As the House is aware, Randwick racecourse will be the venue for the overnight vigil and final mass of World Youth Day. Previous papal masses in 1995, 1986 and 1970 have also been held at Randwick racecourse. The excellent public transport options and the ability to accommodate the expected crowds of people make Randwick racecourse the best and really only option for hosting the event again in 2008.

Approximately 350,000 people will be accommodated at Randwick racecourse with the balance at nearby Centennial Park. The more moderate overnight weather conditions during winter at Randwick, when compared to western Sydney, also make the site more suitable for the evening vigil on the Saturday night before the final mass.

The New South Wales Government established the World Youth Day Co-ordination Authority in 2006 to plan, co-ordinate and provide Government services for World Youth Day 2008. The authority is working together with other Government agencies and the Local Organising Committee of the Catholic Church to ensure public safety and security, and the provision of sufficient public transport and accommodation for participants so that the staging of World Youth Day 2008 is also a success with minimal disruption to the everyday functioning of Sydney and minimal disruption to the operation of Randwick racecourse.

The authority has developed strong working relationships with the Church's event organiser, WYD 2008, as well as partner agencies and key stakeholders. Planning for the delivery of Government services for the event is well underway, including the securing of the 3 key venues and logistical support. The Australian Jockey Club is the lessee of Randwick racecourse. Negotiations have been ongoing with the Australian Jockey Club for some time for access to the site, and a heads of agreement

between the New South Wales Government and the Australian Jockey Club for the use of the site was reached on 14 November 2007.

This heads of agreement covers a range of compensation for the use of Randwick racecourse to a value of approximately \$40 million, with the Commonwealth Government contributing half. It will bring lasting benefits to the Australian Jockey Club and the New South Wales racing industry, with a significant amount of money going towards upgrading facilities at Rosehill and Warwick Farm racecourses. The agreement will assist in ensuring a highly successful World Youth Day event at Randwick racecourse and a successful 2008 Spring Racing Carnival.

I acknowledge the critical bipartisan assistance of the Federal Government in securing this agreement.

The bill will facilitate the use of Randwick racecourse for World Youth Day events. The bill makes it clear that the Australian Jockey Club, its chairman and committee are authorised to use or permit the use of Randwick racecourse for World Youth Day, and to enter into agreements with the State of New South Wales for the use of Randwick racecourse. The bill will allow the Minister to give the authority, and other persons authorised by the authority, a right to enter Randwick racecourse and to carry out works there for the purposes of World Youth Day.

Regulations will be able to be made to set up a Randwick Racecourse Project Steering Committee to assist the authority in its planning and management role for the use of Randwick racecourse. The committee may include representatives of various stakeholders.

Directions will be able to be issued to persons or bodies prescribed by regulation in aid of the agreement or to enable the site to be used for the purposes of World Youth Day. This will also assist in the return of the site to the racing industry to host the 2008 Spring Racing Carnival. The Government will only use this power on a discretionary basis. It has been included in the bill in case of significant disruptions or interference with the preparations or staging of the event or restoration of the site for the 2008 Spring Racing Carnival.

Importantly, a regulation will first need to be made to prescribe persons or bodies who may be issued a direction, and that regulation will be subject to disallowance by Parliament. It will not be a criminal offence to contravene the directions, but they may be enforced through civil proceedings brought by the authority in the Supreme Court. The authority will be able to apply for urgent injunctions, should that be necessary, to ensure the event will not be disrupted. It is hoped that no such action will be necessary. The conditions attached to authorisations issued by the authority for access to Randwick racecourse are also enforceable in the same manner.

It will be an offence to delay or obstruct a person lawfully entering Randwick racecourse or carrying out works there for World Youth Day. It will also be an offence to damage the works without lawful excuse.

Other proposed amendments in the bill will assist in the general management and co-ordination of World Youth Day.

The bill will also restrict the use of air space, aerial advertising and advertising on buildings and structures in and around specified World Youth Day venues and facilities. These restrictions are in line with the restrictions imposed during the Sydney 2000 Olympic Games. It is necessary to restrict the air space over key World Youth Day venues and facilities to ensure the security and amenity of the Pope and the participants. Aircraft will be prohibited from entering the restricted airspace without permission from Air Services Australia, excluding aircraft being used for emergencies, police or military reasons.

The restrictions on advertising will protect important commercial relationships between the event organiser and its business partners. Advertising generally will be prohibited on buildings or structures at the specified sites, unless it has been approved by the authority. Prohibited advertising is to be removed by owners or occupiers of the specified sites. These provisions form key aspects to provide clean venues and prevent ambush marketing, and they are consistent with the provisions for the Sydney Olympic Games.

Under the World Youth Day Act 2006 the World Youth Day period is currently 1 to 31 July 2008. During this period certain powers can be exercised and various activities are prohibited, including in relation to the use of illegal car parks, selling prescribed articles, using community land, removing unattended vehicles, road closures and using restricted traffic lanes. This time period will be enough for most operational purposes, but to ensure that there is an ability to extend the period, should it become necessary, the bill enables the period to be extended by regulation.

Contracted bus operators for regular passenger services will be required to provide sufficient services for World Youth Day events in accordance with the provisions of existing contractual arrangements. The Director General of the Ministry of Transport may direct the operator to provide such services as the Director General determines are necessary for World Youth Day events, and may determine a price or prices for such services. This will be required only when a negotiated outcome between the Director General and the contract holder cannot be reached. It is a discretionary power which the Director General may use if required. Again, we do not expect that those powers will be needed.

In addition the bill extends the period during which planning approval will not be required for temporary structures installed for the purposes of World Youth Day events and facilities. Currently, if the structures are removed by 1 August 2008, no planning approval will be required as long as the authority has provided permission for the structure. The bill extends this period to 1 September 2008 as the current deadline may not provide enough time to remove all the temporary structures from World Youth Day venues and facilities.

The bill will also allow members of the New South Wales Rural Fire Service and the State Emergency Service to assist the authority, other Government agencies and the New South Wales Police Force in the delivery of services for World Youth Day events. They may assist with services such as crowd management and traffic or pedestrian control, as long as the Commissioner of the Rural Fire Service or Director General of the State Emergency Service has agreed to that assistance.

The authority can currently issue directions to Government agencies in relation to transport functions. However, the authority's co-ordination functions extend beyond the transport area to other areas where it is involved in the planning, development and management of the Government's commitment to World Youth Day.

The bill extends the authority's ability to co-ordinate Government functions by enabling the Minister to direct prescribed Government agencies to comply with a direction or request from the authority.

The measures in the bill will facilitate the use of Randwick Racecourse for World Youth Day. They will ensure tight timeframes can be met in preparing Randwick Racecourse for the event and in the clean-up and restoration of the site afterwards. The bill will also further improve the Government's ability to plan, manage and co-ordinate Government services to support World Youth Day.

I commend the bill to the House.

The Hon. MATTHEW MASON-COX [9.21 p.m.]: I lead for the Opposition in debate on the World Youth Day Amendment Bill 2007. The purpose of the bill is to amend the World Youth Day Act 2006 to enable the use of Randwick Racecourse for World Youth Day, to set up a committee to plan and manage the event at the site, to expand the functions of the Government's World Youth Day Coordination Authority, and to implement advertising and aerial restrictions similar to those that applied during the Olympic Games.

The background to World Youth Day is that in 2005 the Holy Father announced that Sydney would be the host city for the event from 15 to 20 July 2008. World Youth Day 2008 will involve a series of events aimed at young people aged from 16 and up to 35 years. Approximately 500,000 people from around the world are expected to attend a Mass said by the Holy Father on 20 July at Randwick Racecourse.

The local organising committee for World Youth Day is chaired by His Eminence Cardinal George Pell and includes Australian Bishops, State Government representatives and Federal parliamentary representatives. I note that the New South Wales Leader of the Opposition is a member of that committee. I commend the committee for all its fine work in organising this important event. Randwick Racecourse was chosen by the committee in December 2006 as the site for the event. However, the Australian Jockey Club agreed to the use of the site earlier this month only after a \$41 million compensation deal was reached, the cost of which is being split by the State and Federal governments.

The State Government introduced the World Youth Day Act 2006 to establish the World Youth Day Coordination Authority. However, the authority's powers are related predominantly to traffic and transport coordination. The bill seeks to amend the Act to give the coordinating authority greater powers to direct other agencies, such as the State Emergency Service, to assist with crowd control and when doctors are administering first aid. These expanded powers also are likely to assist the World Youth Day Coordination Authority, and therefore the Deputy Premier, in overcoming any hurdles that may be encountered as a result of protracted negotiations between the parties.

The Opposition has consulted with key stakeholders affected by this bill. The private bus industry is concerned that parts of the bill relating to bus services are heavy-handed. The bill provides that the Director General of the Ministry of Transport will be given the authority to direct private bus operators as he deems necessary and for the director general to have the authority to determine the price for those services. The Bus and Coach Association has been engaged in regular dialogue with the Ministry of Transport and World Youth Day officials to arrange additional transport services for the event. They were confident that negotiations were progressing well and that the planning and delivery of additional services in accordance with the requirements specified would be efficient and provide value for money.

In spite of that contact, the Bus and Coach Association was not aware that this bill was being introduced until the Opposition consulted the association regarding its provisions: indeed, the association was shocked to learn of the bill's content. The Bus and Coach Association is strongly supportive of World Youth Day and is eager to promote the benefits of public transport. However, the association is uncomfortable with the weight of authority given to the Government in coordinating bus services. The executive director of the Bus and Coach Association, Darryl Mellish, said:

The World Youth Day Amendment Bill gives the Director-General unfettered power to override existing contracts and require provision of services at the DG's direction and at rates determined by the DG. There is no balance of acting reasonably or on normal commercial terms ...

The Association considers that the best way to achieve the most effective transport results for World Youth Day is to work in partnership with the transport providers and not to dictate what they will do and what they'll be paid.

A chief concern of the bus industry is that bus operators should be paid per hour, rather than per kilometre. The Bus and Coach Association says that the event does not lend itself to a kilometre rate as time delays are expected. With 500,000 people arriving in Sydney to attend this important event, that is a very reasonable expectation. A kilometre rate would not cover the cost of providing the service expected.

It is a shame that the Minister for Transport, who is also the Minister in charge of World Youth Day, has not been understanding in his approach to these issues. He has simply stared down the bus industry, hence the introduction of the World Youth Day Amendment Bill 2007. It is very easy for the Minister to negotiate when legislation gives him power to ride roughshod over the Bus and Coach Association's reasonable commercial rights. Nonetheless, World Youth Day is a major event and the Opposition will not oppose the bill. My comments are intended to bring these matters to the attention of the House.

It is worth noting that the local organising committee for World Youth Day 2008 is broadly supportive of the bill. Racing New South Wales is pleased that the racing industry will benefit from adequate compensation for the use of Randwick Racecourse prior to the Spring Carnival. Racing New South Wales is also pleased that the legislation provides for the racecourse to be excluded from liability associated with crowds attending World Youth Day events. Those matters have been dealt with in the bill most appropriately.

Honourable members may be aware that it is 223 days until World Youth Day. The occasion will be the first visit to Australia by the Holy Father Pope Benedict XVI. There is certainly a sense of anticipation building within the community as the event draws closer. I am able to speak personally about preparations at a parish level. In the city of Queanbeyan I am a member of the Catholic parish. I inform the House of the strong awareness among the parish community and the range of events that have been planned to prepare for World Youth Day. The parish is undertaking a fundraising drive involving a whole range of activities, such as car boot sales, hot cross bun drives and other activities that bring the community together and ameliorate the costs of such an enormous and significant event.

In my own parish of Queanbeyan, a World Youth Day Committee has been active for some time in coordinating events of the parish and encouraging members of the parish to billet pilgrims who will be arriving in Australia in 2008. The billeting program is up and running in many regions of the State, and thousands of pilgrims will stay in people's homes. Having been an overseas traveller for a number of years in my youth, I am able to say that there is nothing better when visiting a foreign country than staying in someone's home because it enables a traveller to appreciate firsthand the culture of the country being visited. That will be a very special experience for those who are coming to Australia for the event as well as for those who will host the visit of people from a range of cultures.

Public awareness of the event has been heightened by the Journey of the Cross and Icon across the nation. The cross and the icon are accompanied by an indigenous message stick as an invitation to the indigenous youth of Australia to come to World Youth Day in July 2008. They will pass through every diocese in every State of Australia, and awareness will grow as the day approaches. There are 223 days to go. The days are being counted off, one at a time, outside St Marys Cathedral in the middle of the city.

World Youth Day in July 2008 will be one of the largest events that New South Wales, and indeed Australia, has ever hosted. Think of the 500,000 people who will arrive in our fair city for the World Youth Day celebrations. It will be in an absolutely enormous logistical exercise. I congratulate the Government and the organising committee on providing strong support, both financial and logistical, to this important event. The World Youth Day Amendment Bill 2007 will act to facilitate further the successful hosting of World Youth Day. Accordingly, the Opposition does not oppose the bill.

Ms LEE RHIANNON [9.30 p.m.]: The Greens will not oppose the World Youth Day Amendment Bill 2007 but we object to the river of money and resources flowing to this religious event and the disruption that it is set to cause Sydneysiders.

[*Interruption*]

I note the groans from the Opposition benches. I would have thought Opposition members would at least try to show some concern about the expenditure of public money. This is a chance for them to show leadership on the issue. Opposition members could welcome World Youth Day, as the Greens do, but urge responsible financial management. Public money should not be allowed to flood out the gates because the Government is not doing its job properly. There seems to be no end to the extent to which the Government will

fall over itself to promote and support World Youth Day. It appears that money is no object. The main purpose of the bill is to smooth the way for hosting World Youth Day in July 2008, including the papal mass and vigil at Randwick racecourse.

Of course the Greens are happy for the Catholic Church to hold this event in Sydney. But the Catholic Church, not the public, should have to foot the bulk of the costs. We do not want this event to be a huge drain on the public purse. We know that there will be some costs but they are getting out of hand. It is pretty extraordinary that all the economic rationalists sitting on the leather couches in this place do not seem to appreciate that. The Government must draw the line somewhere as to how much support it will lend the World Youth Day event. But if this bill is any indication, the Government is simply not prepared to do that.

The deal negotiated with the World Youth Day organisers includes compensation for the use of Randwick racecourse to the value of approximately \$40 million. The Federal Government will contribute half this amount. The Greens argue that the Catholic Church, not the Australian public, should pay the \$40 million compensation to the racing industry for giving up Randwick racecourse for World Youth Day. Let us remember why the public will be slugged with this \$40 million bill. We would not incur that cost if the Catholic Church were willing to use another venue. Its insistence on holding the event at Randwick racecourse, and disrupting racing activities there, has blown out the cost to \$40 million. The Catholic Church will reap massive benefits from holding the event in Sydney, but it could have gained the same benefits by using another, less costly venue.

Reverend the Hon. Fred Nile: Where?

Ms LEE RHIANNON: Eighteen venues were studied. When I questioned Ministers about the issue during estimates committee hearings they said that the Catholic Church wanted to hold the event at Randwick because it was where previous Popes had given their sermons. The Deputy Premier, Mr Watkins, also said that it would be too cold to hold the event in the west. He admitted that after he had made great play of the fact that it was a pilgrimage, to which I responded that if it was a pilgrimage that should be part of the deal.

The Hon. Eric Roozendaal: What would you know? You're an atheist!

Ms LEE RHIANNON: Members are waking up. The Minister for Roads thinks I know nothing because I am an atheist. I obviously dispute that claim but I am happy to have woken members. Perhaps we will now have a better debate.

The Hon. Eric Roozendaal: Do you dispute that you're an atheist or that you know nothing?

Ms LEE RHIANNON: I dispute everything that comes out of the Minister's mouth, that is for sure. Members were flagging after yesterday's long sitting so perhaps we will now have a better debate. This legislation certainly needs thorough attention. The \$40 million compensation bill has been made public but the full cost to taxpayers of accommodating the estimated 600,000 visitors to World Youth Day is not known. When these massive compensation bills come in it could be a different story. The Government claims that World Youth Day will inject \$150 million into the New South Wales economy. But the reality is that World Youth Day may end up draining, not boosting, the State's economy. Sydney faces major disruptions during the event period, which now extends from 1 July to 31 July 2008.

The Hon. Jennifer Gardiner: We're used to that every day.

Ms LEE RHIANNON: I acknowledge the interjection from the Coalition benches. All those members who are singing the praises of World Youth Day now should contribute to the debate and tell us where the financial benefits will come from because at the moment it seems that all the money will go out the door. The Greens are simply asking the Government to draw a line in the sand.

The Hon. Eric Roozendaal: What about the spiritual benefits?

Ms LEE RHIANNON: The Minister makes a good point, and I look forward to his contribution to the debate.

The Hon. Eric Roozendaal: So do I.

Ms LEE RHIANNON: It does not sound like the Minister has prepared his speech! Sydney faces major disruption during the event period, which now extends from 1 July to 31 July 2008. We now know that

parks, public spaces, roads and street parking could be co-opted into the World Youth Day arrangements and come under the control of the World Youth Day Co-ordination Authority for well beyond the month of July.

The PRESIDENT: Order! I ask members to exercise a spirit of goodwill and cease interjecting.

Ms LEE RHIANNON: I find remarkable the restrictions on air space and the restricted use of aerial advertising and advertising on buildings in and around the World Youth Day venues and facilities. It is staggering that this Labor Government is prepared to go to such lengths to help the Catholic Church fulfil its contractual arrangements with its World Youth Day commercial sponsors. Since when does a government pass legislation to protect commercial relationships between two private parties? The economic rationalists who are about to vote for the bill will be signing off on legislation that will disadvantage companies that are already advertising in much of the public space that will be taken over for the event. They really have not thought it through. The bill states that prohibited advertising is to be removed by owners or occupiers of the specified sites, and:

... enables a person authorised by the WYD Co-ordination Authority to obliterate or remove that unauthorised advertising material at certain sites.

The Hon. Marie Ficarra: That's right; it is unauthorised.

Ms LEE RHIANNON: It is authorised until World Youth Day, when the space is taken over. Legitimate advertising will suddenly be wiped out. Some of the Liberal Party's big donors could well be disadvantaged suddenly. Will security guards patrol World Youth Day venues to check for unauthorised advertising? Will fines be issued to unauthorised advertisers in the World Youth Day precinct? It is unclear exactly what powers these appointed officials will have. I hope the Minister will answer those questions when he responds to the debate. The World Youth Day Co-ordination Authority will be able to:

... co-ordinate government functions by enabling the direction of a prescribed government agency to comply with a request or direction by WYD Co-ordination Authority.

Does this mean that the World Youth Day Co-ordination Authority will take full control of public spaces like Centennial Park? Will Centennial Park be closed? There are so many unanswered questions. Then we turn to transport. Transport problems will surely impact on the whole of Sydney, not just the eastern suburbs.

The Hon. Eric Roozendaal: There's going to be 600,000 people in town, what do you reckon?

Ms LEE RHIANNON: Exactly. The Government should start telling people about it and making arrangements. At the moment the Minister wants to send buses from all over Sydney to service this one event. Under the bill any bus operator that is currently contracted to the Government will be required to provide services to World Youth Day events. I acknowledge the Minister's interjection that people attending the event require transport. Of course they will. The rest of Sydney still needs to keep moving, and business still needs to operate.

The Hon. Marie Ficarra: They will avoid the area.

Ms LEE RHIANNON: That wonderful interjection. Is the Hon. Marie Ficarra proposing a shutdown from Randwick across all the eastern suburbs? When I questioned the Minister he said people will be walking from Bondi Junction railway station, down through Centennial Park, from Greens Square or from Central—a massive operation. From where will the buses come? They will come from Illawarra, Newcastle, Western Sydney—those areas that the Government takes for granted and will exploit when it suits it. What will happen to the existing routes that those buses service? We will definitely have traffic chaos in the city as usual and the eastern suburbs and public transport disruptions will occur across Greater Sydney.

There are already totally insufficient bus services to Western Sydney. The Government has failed to act on this problem for years, and yet it is making special provisions for World Youth Day that could continue beyond the month of July. The Greens call for some restraint in the State's support for this religious event. The event will cause major disruption in Sydney life, and the true cost to the public may make the event go down in history as a massive drain on the public purse. The Greens do not oppose the bill, despite our reservations about the enormous cost of the event to the public of New South Wales. The Greens call on the Government to come clean and inform the public of the true extent of its generosity towards financing this religious celebration, the disruption that will occur and how will it respond? The public have a right to know not only the number of days

until the event shown with flickering lights in College Street but what will happen and how will it impact on people. If the Government does not inform us one wonders what it has to hide? Does it know it will be disruptive and it does not want to let on?

The Hon. MARIE FICARRA [9.42 p.m.]: It is pleasing to see bipartisan support for this bill—except the Greens which is fairly predictable—and the good will shown by our Randwick Racecourse community and the general Sydney community in arriving at this point. New South Wales has a proud history in the staging of large and important international events, notably the Sydney Olympics and Paralympics in 2000, the 2003 World Rugby Cup and also previous papal masses in 1970, 1986 and 1995 successfully held at Randwick racecourse.

The Hon. Eric Roozendaal: And APEC?

The Hon. MARIE FICARRA: Yes, and the Asia Pacific Economic Co-operation meeting, that is correct. It is understandable that the Vatican, the Pope and the organising committee of the World Youth Day wish to return to this famous and spectacular and comfortable venue to enable Sydneysiders to enjoy this week-long event, and in particular the mass. This bill will amend the World Youth Day Act 2006 to enable the use of Randwick Racecourse for the event and to set up a committee to further plan and manage the site, to expand the functions of the Government's World Youth Day Co-ordination Authority and to implement advertising and aerial restrictions similar to those enacted during the Sydney Olympics. This bill extends the authority's power to coordinate Government agencies to comply with its directions or requests in relation to the smooth operation of World Youth Day 2007.

The bill gives the governing authority greater powers to direct other agencies such as the State Emergency Service and police in crowd and traffic control and medical officers in administering first aid and medical attention. The provisions in this bill will encourage clean venues, close down illegal car parks, remove unattended and obstructionist vehicles, better prevent rogue marketing and thus ensure only the selling of authorised articles associated with World Youth Day, and arrange road closures where necessary and the use of restricted traffic lanes and so on. Such measures were essential during the Sydney Olympics and we certainly learnt quite a lot from the successful hosting of that international event.

We proudly acknowledge that Randwick racecourse can accommodate large crowds of people, and excellent public transport facilities will make it an ideal venue to host such a significant event for millions of people around the world, especially our young people. World Youth Day is the largest youth event in the world and will be held in Sydney from 15 to 20 July 2008. Organised by the Catholic Church, World Youth Day gathers a large number of young people from around the world to build hope and friendships between people from different continents and cultures. His Holiness Pope Benedict XVI named Sydney as the host city for World Youth Day 2008 in 2005. The Catholic Archdiocese of Sydney has done a marvellous job, together with both the New South Wales Government and the former Federal Government, in being part of a delegation that secured this event for our great city. It is pleasing that the newly elected Federal Government will continue to fully support the event.

It should be acknowledged that almost \$41 million of compensation to be given to the Australian Jockey Club will be returned to the racing industry, as it should, to be used to upgrade facilities at the Rosehill and Warwick Farm racecourses, as well as return the Randwick site promptly post the World Youth Day activities to ensure the successful hosting of the 2008 Spring Racing Carnival. Such events bring multi millions of dollars to Sydney and we are proud of it. This compensation was equally funded by the New South Wales Government and the Federal Government.

International World Youth Day will be marked by a week-long series of events attended by the Pope and hundreds of thousands of young people from all over the world. World Youth Day 2008 will mark the first visit to Australia by Pope Benedict XVI and hundreds of thousands of young people are looking forward to welcoming him to the "Southern Land of the Holy Spirit", as Australia was originally referred to by the early Portuguese explorer, Captain Pedro Ferdinand de Quiros. World Youth Day was an initiative of the late Pope John Paul II. Pope John Paul is said to have been inspired by massive gatherings of young people in Rome celebrating the Youth Jubilee in 1984 and the United Nations International Year of Youth in 1985. The first World Youth Day was held in Rome in 1986 on Palm Sunday and has been celebrated at a Diocesan level on every Palm Sunday since. Every two to three years, an international gathering celebrates World Youth Day in a different host city from around the world—Cologne, Buenos Aires, Czestochowa, Paris, Toronto, Manila and Denver have all been host cities over the past twenty years.

Pope John Paul wanted to bring together young Catholics from around the globe to celebrate and learn about their faith on a more regular basis. It is great that this event has now become very ecumenical: it is an event not just for Catholics but for young people from anywhere in the world. We are delighted when everybody comes together to declare their spiritual beliefs in God and their strengths. Pope John Paul saw World Youth Day as a way to reach out to the next generation and to rejuvenate the church and to ensure that the core teachings of Christ are passed on.

The Catholic Church lists four main goals for Australia as host nation: to provide a moving and sanctifying pilgrimage in faith; to provide a forum for youth to experience the power of the Holy Spirit; to assist the rediscovery of the centrality of the Word and Sacraments in the lives of young people; to enable youth to be witnesses to Christ. At the most recent World Youth Day in 2005 in Cologne, the German people saw a witness of faith, hope and love on an unbelievable scale when it welcomed 435,000 registered pilgrims from 197 countries and more than 1.2 million people attended the Final Mass.

This bill will give the Minister the authority to allow for necessary works to be carried out on Randwick Racecourse. There has been a great deal of cooperation between the Australian Jockey Club and the organisers of this event, chiefly the Catholic Church together with Government instrumentalities and they are to be congratulated. Final agreement for use of the site was achieved only recently, on 24 November 2007. The measures to be proclaimed in this bill will allow for the tight time frames needed to meet expectations for this great event for our city and nation, and the bill will allow for the timely clean-up and restoration to occur after the event.

The bill will improve the Government's ability to plan, manage, coordinate and deliver services to support World Youth Day 2008 to make it an outstanding success socially, financially and emotionally for Sydneysiders and visitors to our great city. Uppermost in the minds of all the parties organising this event has been public safety and security of all persons attending events, whilst also giving consideration to minimising the public disruption for Sydneysiders not involved in World Youth Day activities. Planning has been underway for the past two years to get to this point, and all parties involved are to be commended for their cooperation and good spirit to Sydney, which will be showcased once again on the international scene.

One criticism, however, has been mentioned by the Hon. Matthew Mason-Cox regarding the lack of full consultation with an important stakeholder in terms of transportation for the event—the Bus and Coach Association. The association's executive and members feel that their concerns about some aspects of the bill have not been fully canvassed, in particular the setting of prices for transport services as determined by the Director General of the Ministry of Transport when a negotiated position cannot be reached. Obviously more constructive two-way dialogue is needed as soon as possible.

More than 500,000 people will attend the Papal Mass on 20 July 2008—I hope to be one of them, with people from my congregation from St Aloysius Church in Cronulla. Many overseas tourists will contribute greatly to our State economy, and it will be a delight to see them all here enjoying our great country and our great city. Approximately 350,000 people will be accommodated inside Randwick Racecourse, with the remainder in nearby Centennial Park. The event will rival the Sydney Olympics in terms of the number of people participating in any one event and the number of overseas visitors expected.

The event will include other activities across Sydney central business district and throughout the nation, gearing up for a complex logistical, as well as a deeply spiritually rewarding, occasion. The goodwill shown by Sydneysiders in offering to accommodate up to 40 per cent of overseas and country visitors in their homes and the number of volunteers to be associated with World Youth Day reminds me of the fantastic job that Sydney did during the Olympics in 2000. Our city's generosity of spirit and the ability to get behind such large events has become a model for the world, and indeed holds Sydney in good stead for future international events.

World Youth Day 2008 will help Sydney to become a city in the international spotlight again, as it was for the 2000 Olympic Games. The New South Wales economy will benefit greatly from the influx of new visitors and from the World Youth Day pilgrims who continue to tour around Australia in the time preceding and following World Youth Day. I congratulate the Australian Catholic Church and all the organisers of World Youth Day 2008 and wish them every success.

Reverend the Hon. FRED NILE [9.53 p.m.]: The Christian Democratic Party is pleased to support the World Youth Day Amendment Bill 2007, the object of which is to make various amendments to the World Youth Day Act 2006 to make further provision in relation to the planning, coordination and delivery of services

for World Youth Day 2008 and related events. I note the Greens' criticism of World Youth Day. That reminded me that the Greens usually defend criticism of the annual homosexual Mardi Gras by drawing attention to the number of people who come to Sydney for the event and the economic benefit of that influx of people to Sydney as a result of money spent on accommodation, food and so on. That amounts to hundreds of millions of dollars. The Greens apparently do not make the same calculation in regard to World Youth Day.

I know it is difficult to get suitable venues in Sydney. I recall when I was involved in organising Billy Graham crusades in 1979 we were able to book the Randwick Racecourse to accommodate the 100,000 or so people attending those meetings. Earlier I had to organise meetings for as many as 150,000 people, and the only place I could get to accommodate them was the Royal Showgrounds and the neighbouring Sydney Cricket Ground. So I sympathise with the Catholic Church and its organising committee in terms of finding a suitable venue for such a large event to accommodate up to 600,000 people. I congratulate them on the success they have achieved to date.

It seems that the Australian Jockey Club could have been more cooperative in working with the Catholic Church. I have no evidence for this, but I sense that that some people involved in the Australian Jockey Club and associated organisations may have thought they could get some money out of this and decided to make life difficult for the Catholic Church. That is why we finish up with an amount of \$40 million to be paid. It is only through contributions made by the New South Wales and Commonwealth governments that the event is able to proceed. I simply ask the Australian Jockey Club to review the costs that it claims must be met to determine whether some might be a little exorbitant.

As members have said, World Youth Day will be hosting the visit of Pope Benedict XVI. It is the first time he will have visited Sydney so obviously it will be an exciting time for all Catholics and other Christians in Australia. People will be coming from other parts of the Commonwealth to attend the events. The Catholic Church has been working closely with a number of other religious organisations to ensure that there is a spirit of cooperation, rather than of competition. The World Youth Day organisers have already hosted an information evening for more than 15 Australian Jewish leaders. They have been working with Stepan Kerkyasharian, the chairperson of the Community Relations Commission, and they have had briefing sessions with Australian Muslim leaders and church leaders of other Christian faiths in Sydney. So at least they all understand what is happening, whether or not they physically attend the events. I doubt whether members of the Jewish community and the Muslim community will attend the events, but at least there will be a spirit of cooperation and goodwill while the events are being held in Sydney.

I congratulate Bishop Fisher, who had been showing leadership by briefing the rabbis and representatives of the New South Wales Jewish Board of Deputies, Jewish schools and services. It is difficult to estimate how many Catholics there are in Sydney or New South Wales, but it is certainly well over 25 per cent of the population—some say 26 per cent. Indeed, Catholic may be the single largest Christian denomination in this State, if not in Australia, as Anglican numbers have fallen in recent years. So the Catholic Church can now claim to be the largest religious organisation in New South Wales and in Australia.

The bill deals with a number of practical matters. It allows a negotiated outcome with the Australian Jockey Club by allowing the Australian Jockey Club to enter into an agreement for the purposes of World Youth Day. It allows for Randwick Racecourse to be used for the events, and gives authorised persons the statutory right to access and carry out works at Randwick Racecourse for World Youth Day 2008. It also imposes some restrictions on advertising. Obviously World Youth Day will have sponsors, so there needs to be some control of that. It will also ensure that contracted bus operators provide sufficient services, and that the World Youth Day Coordination Authority has the ability to coordinate government functions by enabling the direction of a prescribed government agency to comply with a request or direction from the World Youth Day Coordination Authority. A five-person Vatican delegation has visited Sydney to view the preparations. Apparently they were very pleased with the progress made. All is in order and proceeding according to plan. We need to pray for God's blessing of this very special event in the heart of our city.

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [10.01 p.m.], in reply: I thank honourable members for their contributions to the debate, to which I listened with intent and intensity. The World Youth Day Amendment Bill 2007 will facilitate the use of Randwick Racecourse for World Youth Day 2008, including the papal mass and vigil. The Government considers that the bill will allow the necessary planning for the events at Randwick Racecourse and other World Youth Day events to proceed. The Government acknowledges the heads of agreement reached with the Australian Jockey Club and intends to honour that agreement and the subsequent detailed access agreement.

The powers in this amending bill are not intended to overturn those agreements. The Government is of the firm view that these agreements represent the good will of all parties that will be needed to deliver the event. The powers will be established to be used only in exceptional circumstances. They powers are to be implemented by way of regulation for prescribed persons or parties, that could be anyone who is attempting to disrupt or frustrate the Government's objective of delivering a successful event and returning Randwick to the Australian Jockey Club for training and racing.

This is in explicit acknowledgment of the importance that both World Youth Day and the racing industry have to the State of New South Wales. The Government acknowledges that the Ministry of Transport and the Bus and Coach Association have a good working relationship and that they are currently in negotiation over the provision of bus services for World Youth Day. Again, it is anticipated that the Government will honour any such negotiated outcome between the ministry and bus operators. These measures are intended to provide certainty to the event, not to circumvent that appropriate negotiation process. We need to be sure that we have sufficient buses to get people around the city during that week. The public transport system is central to the success of the event.

There is only one other potential alternative venue for the event in Sydney, and that is Sydney Olympic Park. However, that venue is not capable of meeting all the necessary requirements to hold the event, particularly in relation to line of sight and transport capacity. Sydney Olympic Park also has a lower average temperature than that of Randwick, and that is an important matter to take into account for people staying overnight during winter after the evening vigil.

Transport facilities at Sydney Olympic Park can carry only approximately 45,000 people per hour, whereas transport facilities at Central can transport in excess of 90,000 people per hour. Randwick Racecourse is more suitable than Sydney Olympic Park for the event and can more easily accommodate the expected 220,000 people who will camp overnight for the vigil. The Greens raised the issue of advertising. It is pleasing that the Greens are so concerned about commercial advertisers and the impact this may have on them.

The Hon. Matthew Mason-Cox: It is refreshing.

The Hon. ERIC ROOZENDAAL: It is refreshing, I did not think the Greens would support it. Advertising material will be prohibited on buildings or structures in areas identified by the ministry by gazette notice during a specified period, unless the advertising has been authorised by the World Youth Day Co-ordination Authority. Aerial advertising within sight of Randwick Racecourse, Burragoroo, and other sites prescribed by regulation will also be prohibited during World Youth Day events unless permitted by the authority. The same types of restrictions on advertising were applied during the 2000 Sydney Olympic Games and the Australian Grand Prix in Victoria. The restrictions are intended to prevent ambush marketing such as signs and posters put up at the last minute to ambush World Youth Day events. Sponsors will be clearly visible from World Youth Day sites during the event.

World Youth Day will be a huge event for Sydney, which has hosted a number of significant events in recent times. Approximately 600,000 people, or maybe more, will converge on Sydney to attend the event. There will be some challenges for the Sydney public transport system, and for management of road and traffic issues. This fantastic event will be celebrated in Sydney, and will put Sydney at the focus of the world. I understand that the final mass of the previous World Youth Day attracted a television audience of more than one billion people—vindication enough for the interest in this event. The Government, its agencies and those involved in the racing industry and the Catholic Church are working closely together to meet the challenges of staging this event. Walking will play a key part in the event; people will converge on the final mass, walking from all directions. That great pilgrimage of people is part of the whole process. It will be an amazing time in Sydney, and a challenging time. I know that all members of the House, with the exception of one or two on the crossbench, are supportive of the event and what it will do for Sydney and for Australia. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Eric Roozendaal agreed to:

That this bill be now read a third time.

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

ROAD TRANSPORT (GENERAL) AMENDMENT (HEAVY VEHICLE USER CHARGES) BILL 2007

ROAD TRANSPORT LEGISLATION (BREATH TESTING AND ANALYSIS) BILL 2007

Messages received from the Legislative Assembly returning the bills without amendment.

COMMISSION FOR CHILDREN AND YOUNG PEOPLE AMENDMENT BILL 2007

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [10.07 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 amendments are not substantive in nature, but rather help to clarify existing provisions and streamline the Act's provisions. They will consequently allow the Commission to do its work more effectively.

I will now outline the amendments to the Commission for Children and Young People Act 1998.

Working With Children Check

I turn firstly to amendments which will strengthen and streamline the Working With Children Check.

The bill will mean that the Working With Children background check will apply regardless of whether people are employed to work only with children who are related to them.

Last January, the amalgamation of the Commission's Act and the Child Protection (Prohibited Employment) Act 1998 took effect.

The amalgamation resulted in a single set of definitions applying to both the prohibited employment and background check components of the Working With Children Check.

This had the unintended consequence that an employee was no longer required to have a background check if all the children with whom they work are related to them.

The result is that a small number of people are not currently subject to the Working With Children background check: commercial babysitters who baby sit only for relatives, for example, or foster carers who are authorised to care only for relatives. Such people should be background checked, irrespective of whether they are caring for relatives or not.

This bill will resolve this problem by requiring that all people in primary child related employment are subject to the background check.

The question of whether they are related to the children will not arise.

This bill corrects an anomaly that arose from the amalgamation of the two Acts and reinstates the original intention of the Parliament when passing the legislation.

The bill also contains two amendments that will help employers meet their requirements to report certain matters about employee behaviour to the Commission.

Under the Act, employers are required to report to the Commission if an employee has committed an act of violence against a child or has engaged in certain types of conduct.

If an employer has investigated the employee's behaviour, and has found that the employee has, or may have, behaved in a prescribed way or used violence against a child, they report it to the Commission, who take it into account in background checking.

This is referred to in the Act as a "relevant employment proceeding".

However, some employers have been confused about when they are required to report the proceeding to the Commission.

The bill includes a precise definition that will give employers clarity about when to report.

The bill means that an employer will be required to report a relevant employment proceeding when the employer has determined: that the conduct has or may have occurred; and what disciplinary action, if any, that should be taken by the employer.

As well as providing clarity for employers, this amendment means that the employer may think more carefully about the effect and consequences of the conduct and may encourage them to revise their risk management procedures.

The bill makes an additional clarification about the nature of the proceedings.

The Act currently uses the term "disciplinary proceedings". However, in some employment settings, this term or similar words are used with a narrower meaning.

The Education Act is one example.

This has led to some confusion for employers in these sectors they are unsure when to report matters to the Commission because they have two definitions to consider.

For this reason, the bill uses the inclusive term "proceedings (including disciplinary proceedings)", to remove any doubt by employers in these sectors.

This bill makes one further change to strengthen the relevant employment proceedings provisions.

Currently, the Act requires employers to notify the Commission of the name and other identifying particulars of any employee against whom relevant employment proceedings have been completed.

They are not required to provide any further information.

Clearly, it is of limited value in assessing risk to children if the Commission knows that a person has engaged in some prescribed behaviour towards a child, but it does not know what the person has done, how the child was harmed or the circumstances of the conduct.

This bill will require employers who report relevant employment proceedings to provide sufficient details about the incident or incidents, so they can usefully be considered in the background checking process.

The bill protects employers from liability if they fulfil this obligation in good faith.

The changes to the Act which came into effect last January allow for a scheme to assist self-employed people in child related employment.

Under this scheme, to be established by regulation in 2008, self employed people will be able to display a certificate verifying that they are not a prohibited person.

When undertaking the Independent Review of the Commission's legislation, Ms Helen L'Orange, who recommended this scheme, proposed that people applying for such certificates should be charged a fee to cover costs.

This is consistent with the practice in most Government and professional certification schemes.

The Commission's Act currently authorises charging a fee for any services or materials it supplies.

However, legal advice has suggested that issuing the self-employed certificate is a regulatory function and should not be characterised as supplying "services or materials".

So the Commission needs a new power to charge fees for certificates, which this bill will provide.

Finally in relation to the Working With Children Check, the bill will update the Commission's Act to reflect terminology changes in the Crimes Act.

The Working with Children background check reviews "relevant apprehended violence orders", which are defined to include interstate restraint orders.

However, the Crimes Act has been amended, substituting the words "external protection orders" for "interstate restraint orders".

These provisions have also been moved to the Crimes (Domestic Violence) Act 2007. References to interstate restraint orders and the Crimes Act are therefore now out of date.

This bill will update this terminology to mirror the Crimes (Domestic Violence) Act 2007.

Child Death Review Team

I turn now to the provisions that concern the Child Death Review Team.

Honourable Members will be aware of the significant achievements of the New South Wales Child Death Review Team.

The Commission's Act establishes the Child Death Review Team for the purpose of preventing and reducing the deaths of children in New South Wales.

The Team is required to report on all deaths of people under the age of 18 years in New South Wales.

Currently the Team is unable to report on deaths of children that occur outside of New South Wales.

Children who live in border areas of New South Wales may die interstate. Think for example of children living in places like Queanbeyan, the Tweed, Albury and Broken Hill.

As a result of illness or injury, children in these areas may die in an ambulance or in the nearest hospital, which could be interstate. They could be the victim of a road accident or drowning just across the border.

Information about these deaths may well be useful in preventing future deaths of New South Wales children, but at present the Team does not have the power to study them.

There are now Child Death Review Teams in most Australian jurisdictions.

This bill will amend the Act to allow reciprocal arrangements between New South Wales and other Australian jurisdictions, so the Team can access information about the deaths of New South Wales children who die elsewhere in Australia.

It will also allow the Team to provide information for research undertaken by other Teams aimed at preventing or reducing child deaths in their jurisdictions.

However, the bill requires that any interstate Teams using information from New South Wales will have to maintain the same stringent confidentiality standards as the New South Wales Team.

The bill also contains a further amendment to the legal status of the Child Death Review Team, to simplify administrative requirements and save resources which could be better spent elsewhere.

The Child Death Review Team is currently constituted as a corporation.

This means that the Team is required to maintain financial records, and to prepare and have audited financial Statements.

However, the Team has no funds and employs no staff.

Its research, administration, publication, dissemination and support functions are undertaken and paid for by the Commission.

All Child Death Review Team-related finances have been included in the Commission's audited financial Statements since the Commission's creation in 1999.

Producing and auditing financial Statements that contain no finances is a poor use of resources.

It is unnecessary to require the Team to maintain financial records.

This bill will constitute the team as a Committee of the Commission rather than as a corporation, alleviating the necessity for separate financial reporting.

The Team's functions, powers, constitution and independence will remain unchanged.

Parliamentary child-related conduct declarations

Honourable Members may recall that the March 2007 general election was the first time candidates for this Parliament were required to make public declarations about whether they had committed certain forms of conduct with the potential to harm children.

The Parliamentary Electorates and Elections Act 1912 confers on the Commission the function of auditing child related conduct declarations made by candidates elected to the New South Wales Parliament at a general election or by-election.

However, this Act does not confer on the Commission all the powers it may need to undertake the audits.

For example, candidates are required to declare whether they have ever been the subject of an Apprehended Violence Order taken out to protect a child.

The Commission may have to seek information from the Police or a court to determine whether a particular Order was taken out to protect a child—an order taken out to protect an adult is not relevant to the declaration.

At present, the Commission does not have the power to require the Police or a court to provide the necessary information, so it is possible that the Commission would be unable to verify whether a candidate's declaration was complete.

I hasten to reassure the House that such a power was not needed in the audit for the 2007 General Election.

However, it may well be needed in future elections. It would be prudent of us to give the Commission the power to obtain such information should it be needed.

The bill amends the Parliamentary Electorates and Elections Act 1912 by empowering the Commission to request the Police and courts to provide copies of documents it needs to complete an audit and to require agencies to comply.

Should it be necessary for other agencies to provide documents, provision is made for these powers to be extended to them by Regulation.

Minor Amendments

Finally, the bill contains two minor amendments of an administrative nature.

In 2006, the Commission's status changed from a Government department to a statutory body. Reports (Statutory Bodies) Act 1984 rather than the Annual Reports (Departments) Act 1985.

The Commission's Act still refers to the Annual Reports (Departments) Act.

The bill updates this provision so that the Commission is governed, appropriately, by the provisions of the Annual Reports (Statutory Bodies) Act 1984.

The Commission's Act provides the Commissioner, Commission staff, members of the Child Death Review Team and other Commission committees with protection from personal liability for certain acts and omissions.

However, this section of the Act refers at times to "acts and omissions" and at other times only to "acts".

The intention was clearly to provide protection consistently, and this awkward wording is an oversight.

The bill corrects this oversight by providing that protection from personal liability is available for anything done or omitted in good faith in the execution of that Act or any other Act.

Conclusion

This bill contains a good package of amendments which will assist employers by clarifying their Working With Children Check responsibilities.

It will enable the Child Death Review Team to extend its excellent research even further, and help streamline the Commission's administrative functions.

I commend the bill to the House.

The Hon. CATHERINE CUSACK [11.08 p.m.]: The Commission for Children and Young People Amendment Bill 2007 has been described informally as a housekeeping bill that tidies legislation and takes up positive proposals from a number of sources, including Helen L'Orange, who conducted a thorough review. In relation to cross-border communities the bill closes an important loophole that I identified some years ago has proved complex and problematic due to the innovative nature of the work of the Child Deaths Review Committee—which is leading Australia—and the issue of privacy, which is a perpetual thorn in all cross-border negotiations between States.

While it is a housekeeping bill, the issues the bill clarifies are very important. My colleague the member for Manly has spoken in detail about the changes and I endorse the diligence and the thoughtfulness of his approach. He has a passion for young people, great experience and a measured style, which is a wonderful asset for discussion on this topic. Indeed, the Commission for Children and Young People and its Commissioner Julian Calvert—whose presence in the House today I acknowledge—report direct to the Parliament and have access to what I believe is the strongest ever collection of members who wish to assist and promote their work. The Minister for Youth, Linda Burney, is a very high-profile Minister and the first ever Minister from an Aboriginal background.

I sit on the parliamentary committee that oversees the commission. The committee is chaired by Carmel Tebbutt, who, again, is unusually qualified for her role. The opportunity she offers the commission and the Parliament reflects her own child-centred choices. My colleague Steve Cansdell is also a member of the committee and is another passionate advocate for young people in trouble. Members may have read a feature article in last Sunday's *Sun-Herald* in which he revealed his childhood background in a State-run home for children who were orphaned or whose parents could not care for them. The article shows what a special person Steve is and how he wants to use his experiences in a positive way, particularly to give back to the younger generation. Reverend the Hon. Fred Nile, with a wealth of experience and strong advocacy, is the Deputy Chair of the committee, and the member for Macquarie Fields, Dr Andrew McDonald, is a well-known paediatrician who brings with him additional insights and expertise not previously available.

For me it is an honour to serve on such a strong committee. I hope that my observations have not taken up too much of the time of the House, but I believe that an unprecedented and extraordinary collection of

parliamentary talent, goodwill and advocacy is working with the commission. It reflects the strong bipartisan interest that we all share in doing more for our young people. Such enthusiasm might seem like a mixed blessing for the commission with more being expected of it and a higher standard of discourse.

Earlier this evening, when I was listening to the remarks that were being made by my colleague Mike Baird, I realised that he is just as comfortable as I am in picking up the phone and talking to the commissioner. I suppose that if we were all doing that and we were all trying to help, it would make life more complex and increase the workload. However, we receive nothing but positive feedback and encouragement, and we appreciate the opportunity to learn and to play a small role in this important work.

It is in that context I thank the commission and the Government for seeking to address my concerns about the underreporting of deaths in cross-border communities. By way of personal background, I grew up in Yass, a cross-border community near the Australian Capital Territory border. Currently, I am a resident of the Far North Coast, another cross-border community. New South Wales has more borders than any other State and every border community is receiving tertiary level health services in other States. That means that the North Coast from Grafton up, as well as the northern sections of New England, especially Tenterfield and the north-west slopes, have access to teaching hospitals in Queensland, including specialist paediatric services. When talking about child deaths one would expect that level of service to be highly engaged in the care of young people, and for young persons who pass away to be located in such facilities.

Canberra provides tertiary level paediatric health services in the Southern Highlands from Goulburn down through the Monaro region to the Far South Coast. Riverina communities, including Wagga and Albury, tend to flow south to Melbourne, while communities in the far north west of the State in the Broken Hill region access tertiary health services in Adelaide. New South Wales has very few inflows from interstate, but half a million residents are dependent on high-level paediatric services in neighbouring capital cities. For that reason we have most to gain from an information sharing agreement that will close the significant gaps in data collection undertaken by the Child Death Review Team.

A child who is fatally injured or terminally ill very often passes away in another State, with death certificates being issued in that State. The effect of omitting those deaths from data—they are omitted at the moment—is quite profound. Deaths are significantly underreported in our regions, which means that the entire process of investigation and monitoring trends is a waste of time for our communities. For example, drownings are grossly underreported on the North Coast but, in my view, that area deserves close monitoring and attention. Indeed, that very issue alerted me to the problem. For two years in a row the Tweed statistical area reported zero deaths from drowning, and yet as a local I knew that was simply untrue.

The problem was revealed in discussions with the commissioner, who stoically withstood my making many representations on the issue. A further problem is that the Ombudsman relies on Child Death Review Team data to identify cases of reviewable deaths, including children or their siblings who were known to the Department of Community Services. In cross-border communities all those cases fall through the gaps. I believe that the number of reviewable deaths in our communities has been underreported as a result, and the Ombudsman, who as we know undertakes a thorough review of each and every case, has not investigated them. I believe that the situation relating to reviewable deaths is more than unacceptable to our communities.

These legislative changes will greatly strengthen the integrity of the data and the overall process. I am heartened to see an outcome as a result of my representations. It has not been a simple matter; I had to overcome many hurdles to reach this point and I thank the commissioner and the Government for their persistence. I have said many times in the past that the commission is well served by an eminent panel of specialists who comprise the Child Death Review Team. The bill will alter the legislative basis for the team from a statutory authority to a body located administratively within the commission. I have been assured that this will make no practical difference to the independence of the team. However, it will streamline its arrangements. For example, its standing as a statutory authority means that it must comply with annual reporting requirements, including financial reports that read nought, nought and nought. The Opposition accepts that these new arrangements are commonsense arrangements.

The issue of background checks for carers related to children has also been clarified in this bill. It appears that an error occurred in the initial legislation. Background checks for all people working with children, including relatives, were to be conducted but they were left out of the bill. Background checks are particularly important when children are being placed in foster care. A failure to conduct a background check led directly to the death in 2003 of Mundine Orcher, a five-month-old boy. On Saturday 1 December 2007 the case was

reported extensively on page 1 of the *Sydney Morning Herald*. In 2005 the Ombudsman referred to it in his child deaths review.

I have previously raised this matter in this House and in estimates committee hearings—a shocking case in which the Department of Community Services placed the child and his siblings with foster carers against the wishes of the mother. The male carer was a relative of the child's father. If the Department of Community Services had conducted a background check in accordance with its own procedure, the extensive violent history of the carer and the fact that he had served time in custody for violent offences and was wanted by police would have been picked up and the placement would not have been made. The police attended a domestic violence incident at the home after the children had been placed but failed to notify the Department of Community Services of the incident and the fact that children were in the house. The boy subsequently died of non-accidental injuries. According to the paediatrician who examined the child, these injuries, which were severe, were sustained over a long period.

Just to complete the disastrous circumstances of the case, we now find that insufficient evidence has been able to be collected in order to lay charges against any person involved in this tragic death. I believe that these background checks are essential. It is of great concern to me that although the bill requires these checks, schedule 1 exempts relatives from being considered as prohibited persons. In other words, background checks, which are run to establish the background of a person, are vital. The bill defines "relative" and provides that though a relative has a negative background check and is designated as a prohibited person, the provisions will not apply if that person is defined as a relative. Proposed section 33PA states in part:

Child-related employment to which Division does not apply

(1) This Division does not apply to the employment of a person in child-related employment if:

- (a) all the children with whom the person is required to have contact in that employment are related to the person, or
- (b) all the children with whom the person is required to have contact in that employment are related to the employer and the person is related to the employer.

(3) In this section:

relative of a person means the spouse, parent, child, grandparent, grandchild, uncle, aunt, brother, sister, niece or nephew of the person, whether the relationship is of the whole or the half-blood and whether the relationship is natural or depends on the adoption of a person.

I am particularly concerned about this part of the definition:

spouse of a person includes any person who is living with that other person as that other person's partner on a bona fide domestic basis.

That is an incredibly broad definition of "relative". A background check might establish that someone falls into the category of a prohibited person, for example, someone who has just been released from jail for committing a violent or sexual assault on a child. If that person moves into a house with a partner, even though he or she is not married to the partner and is not related to any children in the house, under this definition of "spouse" the prohibited status of that person is nullified. In other words, this bill does not fully close the loopholes. I believe the problem is compounded particularly in the Aboriginal community because under part 2 of the Children and Young Persons (Care and Protection) Act 1998, which deals with Aboriginal and Torres Strait Islander Council principles, the Department of Community Services is required to go to great lengths to make kinship care arrangements for Aboriginal children.

Item 13 of this part of the Act lists the specific order for placement, and in a very well-meaning way requires extensive consultation with Aboriginal communities and families in those arrangements. The Act lays out step by step all the different types of family arrangements and leaves very little opportunity for the department to manoeuvre around those principles. The problem is that the safety and needs of the child, which govern the care arrangements for all non-Aboriginal children, are not the overriding considerations for Aboriginal children. Cultural considerations appear to be given more priority than child safety for Aboriginal children.

This double-standard approach to care arrangements for Aboriginal children was dramatically highlighted last year when three Aboriginal brothers aged two years, four years and six years were removed from a foster family after having formed strong bonds with the parents over a two-year period, were thriving

physically and emotionally, and the Department of Community Services had encouraged long-term care planning because of the success of the placement. The children were removed because alternative foster parents were identified where the male partner was Aboriginal, although the mother was not.

These young brothers were ripped by the Government from a loving, safe and supportive home even though there is a long waiting list of foster parents for Aboriginal children. The removal of these three brothers was at the expense of placing other Aboriginal children in the care of foster parents. The Foster Care Association was left incredulous that the established bonds and the needs and progress of the children were secondary to cultural considerations. The Administrative Appeals Tribunal's ruling on the matter was, as strange as it seems, that the Act is very clear on that point.

The reason for the decision is found in division 2 of the Children and Young Persons (Care and Protection) Act. Given that the interests and wellbeing of these Aboriginal children effectively were downgraded by ideology, I urge the House to consider also the effect of the exemption clause for prohibited persons being foster parents. My conclusion is that Aboriginal children in New South Wales receive a lesser standard of protection compared with white children. The situation is very complex and disturbing; it is an issue the Department of Community Services and the Iemma Government seem incapable of talking about. I understand it is difficult, but it is the key factor in too many deaths of Aboriginal children. As difficult and as sensitive as the issues are, we must discuss the problem and try to find an intelligent, commonsense solution. I do not believe the solution is to have a blanket exemption for people who would otherwise be prohibited persons. That is just an excuse to turn a blind eye to a serious problem. I cannot imagine a problem being more serious than young Aboriginal children dying.

A final contentious issue the bill deals with relates to background checking of individuals who nominate for election to the New South Wales Parliament—which was introduced following the controversy surrounding the arrest of a Iemma Government Minister, Milton Orkopoulos. Of course, that was prior also to other controversies involving the then member for Macquarie Fields; the member for Blacktown, Paul Gibson, earlier this year; and Phil Koperberg for the second time this year in a matter we are still trying to deal with. I remind members of the comments of Barry O'Farrell at the time the original legislation was passed through the Parliament. He said:

Regrettably, once again we see gesture politics from the Iemma Government. This is probably the best indication that this Government is a continuation of the former Government.

By that he meant the Carr Government. He continued:

Labor has been in power for 12 years and over those years we have seen continual gesture politics. When the Government is in trouble with the media it puts something out in the expectation that the public will believe it will solve the problem. This legislation would not have stopped the former Minister [Orkopoulos] taking his place in Parliament in 1999 and 2003.

This legislation we are amending tonight by way of housekeeping would not have stopped any of those who have since experienced crises concerning domestic violence allegations from becoming members of this Parliament, even though precisely that type of predicament was the trigger for this legislation. I recall that after the election it was stated that all members of Parliament now have undergone this background check. I point out to my lower House colleagues that half the members of the Legislative Council have not undergone that background check—those who will stand at the next State election. I am confident I will survive a background check, but it is incorrect to say that I and my other 20 colleagues who did not stand at the last State election have actually been through that process.

The legislation relating to background checks for candidates is confusing and seems to go nowhere. The implications of failing the background test still are unclear. I appreciate that administering the legislation is a big headache for the commission and, obviously, the politics require that process, but I am not sure it will achieve anything but additional workload on the commission. I was fortunate to be one of the few members lucky enough to receive a copy of the Legislation Review Committee Digest before the bill was debated. Many matters already had passed through the Parliament before the committee was able to release its report. I hasten to add that that is no reflection on the committee but on the welter of legislation that fell on the Parliament straight after the Federal election. The Legislation Review Committee, in describing the changes to the Parliamentary Electorates and Elections Act arising from this legislation, stated that the Act:

confers on the commission the function of auditing child-related conduct declarations made by candidates elected to the New South Wales Parliament at a general election or by-election ... The commission may have to seek information from the police or a court to determine whether a particular [apprehended violence] order was taken out to protect a child ... The bill amends the

Parliamentary Electorates and Elections Act 1912 by empowering the commission to request the police and courts to provide copies of documents the commission needs to complete an audit ...

The bill will achieve those technicalities. I have no idea what the bill will achieve in practice because it is not at all clear where these reports are going and how the legislation is being tested. This legislation does not appear to have been tested since the last State election. Given the way politics works in New South Wales, no doubt this legislation will be tested at some future stage. I will be most interested to see the result. The Opposition does not oppose the bill. Again I thank the commissioner and the commission for their work.

Mr IAN COHEN [10.27 p.m.]: The Commission for Children and Young People Amendment Bill 2007 seeks to make some amendments to the principal Act and also one amendment to the Parliamentary Electorates and Elections Act. By clarifying certain provisions the bill will allow the effective functioning of the commission. The bill seeks also to clarify requirements for employers to report to the commission certain matters regarding employees. This includes providing additional details to the commission in regard to employees concerning incidents that have led to proceedings. The Greens support this provision. It makes sense that when the commission is to assess risk to children it should have access to information regarding the nature of harm to children.

The bill clarifies also relevant employment proceedings and makes some adjustments via a clarifying provision in relation to apprehended violence orders to be consistent with new terminology in the Crimes Act. The legislation provides for a working with children background check to be applied regardless of whether people are employed to work with children who are related to them. I am advised that this could apply to situations where foster carers or babysitters care only for extended family members. I understand it was an anomaly that this provision did not apply in such cases, and it is certainly reasonable for the amendment to address that issue.

The bill makes changes to allow for cross-border reporting in order for the Child Death Review Team to be able to report on deaths of New South Wales resident children whose deaths occurred in other States or Territories. This should allow for better reporting and cooperation between States in regard to child deaths, which always are tragic and should be treated with as much transparency as possible. Some miscellaneous amendments in the bill seek to clarify the legal status of the Child Death Review Team and the commission. The bill seeks also to amend the Parliamentary Electorates and Elections Act by giving wider powers to the commission to request the police and courts to provide copies of documents needed to audit child death-related conduct declarations.

All children should be able to live without fear in a secure environment and be given the opportunity to maximise their full potential and performance. The New South Wales Commission for Children and Young People plays a role in that regard. With respect to child protection more broadly, much has been stated in the media lately about child protection as a result of the deaths of a number of young children in quite horrific circumstances. The Greens support significantly better resourcing of agencies such as the Department of Community Services as well as better cooperation between agencies in relation to child abuse, neglect and exploitation. I too examined the Legislation Review Digest, which states:

This Bill will require employers to provide sufficient details about the reportable incident so that they can be considered in the background checking process such as information on what the person has done, how the child was harmed or the circumstances of the conduct ...

The Committee notes that the current legislation already requires employers to notify the commission of the name and other identifying particulars of an employee against whom relevant employment proceedings have been completed, and given the public interest in protecting children, the Committee is of the view that, on balance, the proposed section 39 (2) of Schedule 1 [9] does not unduly trespass on the right to privacy.

The Greens support the bill.

Reverend the Hon. FRED NILE [10.31 p.m.]: The Christian Democratic Party supports the Commission for Children and Young People Amendment Bill 2007. Like the Hon. Catherine Cusack, I am a member of the parliamentary committee that oversees the work of the Commission for Children and Young People. It is a privilege to be a member of the committee, which is chaired by Ms Carmel Tebbutt. She does a very good job. Recently the parliamentary committee held a hearing attended by the Commissioner for Children and Young People, Gillian Calvert, who is in attendance tonight in the President's Gallery and is following this debate. I acknowledge her presence and appreciate her important role.

The bill has four important aspects. It strengthens the background checking provisions of the Commission for Children and Young People Act and protects children in a number of ways, but particularly by reinstating provisions for background checking a small number of people who are employed to care for relatives. Relatives were excluded when the Crimes Act and the Commission for Children and Young People Act were amalgamated in January 2007. The bill also provides for cross-border reporting so that the Child Death Review Team will be able to report on deaths of children who are residents of New South Wales and whose deaths occur in jurisdictions other than New South Wales.

The bill provides for other miscellaneous amendments to clarify the legal status of the Child Death Review Team. Previously the review team was classified as a statutory corporation, but in the interests of greater efficiency and cooperation the bill provides for it to become a committee of the commission. The bill also amends the Parliamentary Electorates and Elections Act 1912 to confer on the commission wider powers to request the police and a court to provide copies of documents that are necessary to audit child-related conduct declarations. I understand that the new system has worked satisfactorily. I was re-elected as a member of the parliamentary committee and was instrumental in achieving those reforms. The Christian Democratic Party is pleased to support the bill.

The Hon. MARIE FICARRA [10.35 p.m.]: The Coalition supports the bill. The Hon. Catherine Cusack has already dealt with the bill in detail. I too acknowledge the good work of the New South Wales Commissioner for Children and Young People, Gillian Calvert. I had the opportunity to meet her recently and was struck by her very happy disposition. I have no doubt that reflects the good work she does. I also congratulate the parliamentary Committee on Children and Young People on its work. In my past local government career I was very pleased to have been associated with Dr Clarence Gluskie, one of the former Governors of Rotary International and the foundation president of the Hope for the Children Foundation. It was great to be associated with his parenting programs and all the work he has done in preventing child abuse. He is a psychiatrist and a great humanitarian. He has organised many child abuse congresses and has discussed different forms of abuse to which children may be subjected. There is no finer work than the protection of our children.

The bill amends the Commission for Children and Young People Act 1998 with regard to background checking of applicants for employment and the functions and status of the Child Death Review Team, and it amends the Parliamentary Electorates and Elections Act 1912 with regard to the auditing of child-related conduct declarations. The bill also will assist in streamlining the commission's administrative functions. In relation to the working with children check, the bill will update the commission's Act to reflect terminology changes in the Crime Act.

Importantly, the bill will allow the commission, through its Child Death Review Team, to investigate the deaths of New South Wales children that occur outside the State. As the Hon. Catherine Cusack has already stated, the bill will apply to children who have lived in border areas of New South Wales, such as Queanbeyan, the Tweed, Albury and Broken Hill, as well as other more distant child deaths. Reciprocal arrangements will exist with other similar interstate jurisdictions. The team is required to report all deaths of people under the age of 18 years in New South Wales. The bill will allow the team to provide information for research undertaken by other teams that is aimed at preventing or reducing child deaths in other jurisdictions.

The amending provisions of the bill will strengthen and streamline the working with children check. This check will apply regardless of whether people are employed to work only with children who are related to them. This will rectify a previous anomaly whereby a person who is working with children who are related to them were exempt from background checks—for example, babysitters who babysit only for relatives or foster carers who are authorised to care only for relatives. Such people should be background checked, irrespective of whether they are caring for relatives or not. The bill will help employers to meet requirements to report certain matters about employee behaviour to the commission—for example, acts of violence against children, or engaging in adverse types of behaviour with children.

There will be increased clarity regarding the timing of that type of vital reporting for further disciplinary proceedings. Employers will be required to provide sufficient details regarding their employees and related incidents against a child or children. Such details will be taken into account in background checking processes—details such as what the person has done, how the child was harmed, and the circumstances of the misconduct. This amending provision may mean that the employer thinks more carefully about the effect and consequences of conduct. Hopefully it will encourage employers to revise their risk management procedures.

The bill protects employers from liability if they fulfil their obligations in good faith. The changes to the Act that came into effect last January allow for the scheme to assist self-employed people in child-related employment. Under the scheme that will be established by regulation in 2008, self-employed people will be able to display a certificate verifying that they are not a prohibited person. The Coalition is aware that charging for certificates is consistent with the practice of other government and professional certification schemes. However, we are concerned that charging fees for the issuing of certificates to self-employed people may become a disincentive for employers to conduct background checks. There will be a continuing need to keep this compliance aspect under review.

The Government will need to devote more funds to ensuring that employers are aware of the changes to the Act; otherwise the objectives of this legislation will fall short. Undoubtedly, the commission will publicise changes to legislation on its website but, as we all know, public awareness campaigns are needed and employer groups need to be involved in informing their members of their obligations. For example, there is insufficient awareness in the community that certificates should be sighted by those employing someone to work with children. Another matter of concern for the Coalition is the disturbing fact that the commission has not yet used its powers granted by the 2005 legislation relating to audits of employer compliance. We believe that is due to inadequate funding for such processes. Clearly, the Coalition would like the Government to respond positively to that aspect.

The Parliamentary Electorates and Elections Act 1912 confers on the commission the function of auditing child-related conduct declarations made by candidates elected to the New South Wales Parliament at a general election or by-election. Such provisions were used for the first time at the New South Wales State election in March. However, the Act does not confer on the commission all the powers it may need to undertake the audits. For example, candidates are required to declare whether they have ever been the subjects of an apprehended violence order taken out to protect a child. The bill gives the commission the power to obtain such information from the police or the court system should it be needed. The commission's Act provides the commissioner, commission staff, members of the Child Death Review Team and other commission committees with protection from personal liability for certain acts and omissions made in good faith in the execution of that Act or any other Act.

There can be no greater responsibility for us as legislators than the protection and welfare of our children and young persons. Much has been done in the past to put systems in place for reporting child abuse—physical, sexual, emotional and social. Unfortunately, recent stark incidents have involved unnecessary and tragic child deaths, and many instances of abuse and neglect are occurring as we speak in the House. We must strive to improve the systems we have in place to protect our communities, and especially our children, who are most vulnerable. We hope the bill will assist us with this vital responsibility. The Coalition does not oppose the bill.

The Hon. HENRY TSANG (Parliamentary Secretary) [10.41 p.m.], in reply: I thank honourable members for their contributions to the debate on the Commission for Children and Young People Amendment Bill 2007. As part of the New South Wales Labor Government's commitment to protecting children it established the Commission for Children and Young People in 1998. The New South Wales Commission for Children and Young People is an independent organisation that works with others to make New South Wales a better place for children and young people. As part of this aim the commission undertakes research, the working with children check, and community education and training. The bill will clarify provisions in the Commission for Children and Young People Act 1998 for the working with children check for people in child-related employment. The bill will also make other amendments to provisions of the Commission for Children and Young People Act, and one amendment to the Parliamentary Electorates and Elections Act 1912. 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. Henry Tsang agreed to:

That this bill be now read a third time.

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

HEALTH LEGISLATION AMENDMENT BILL 2007**Second Reading**

The Hon. PENNY SHARPE (Parliamentary Secretary) [10.43 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.

This bill proposes amendments to a number of pieces of health legislation, namely the various health professional registration Acts, the Health Administration Act 1982, the Health Services Act 1997, the New South Wales Institute of Psychiatry Act 1964, the Poisons and Therapeutic Goods Act 1966, the Public Health Act 1991 and the Smoke-free Environment Act 2000.

I will firstly address the amendments to various health professional registration Acts contained in Schedule 1 of the bill. The Acts amended by this schedule are each of those health professional registration Acts that establish a Tribunal to hear serious complaints about registered health practitioners, including the Medical Practice Act 1992 and the Nurses and Midwives Act 1991. Each tribunal has a chair and a number of deputy chairs each of whom must be an Australian Legal Practitioner with at least seven years experience, or in the case of the Medical Tribunal a Judge of the District Court, and who are appointed by the Minister for Health for a fixed term of office of up to 7 years.

The situation has previously arisen where a tribunal chair has been in the middle of a number of disciplinary hearings when his term of office expired. This unfortunate turn of events resulted in a situation where the Minister has been forced to reappoint that person to the relevant tribunal in order to allow for the finalisation of the hearings, the only alternative would have been to allow the relevant hearings to be aborted and recommenced under a separate chair or deputy chair. This approach would have caused significant cost and inconvenience for all parties and possibly have resulted in some disciplinary proceedings being abandoned all together.

The proposed amendments provide that a chair or deputy chair whose term of office has expired is to be deemed to continue as a deputy chair for the sole purpose of finalising any partially heard inquiry or appeal.

Schedule 2 of the bill also contains a number of minor amendments to a number of health professional registration Acts.

Firstly, the amendments in Schedule 2.1 and 2.2 relate to the Dental Practice Act 2001 and the Dental Practice Regulation 2004. The first amendment proposes the deletion of section 33(2) from the Act. Section 33(2) of the Act essentially provides that dental therapists may only practise in the public sector. All other Australian jurisdictions have removed the equivalent restrictions over the last decade.

New South Wales currently has 2.6 dental therapists per 100,000 of population. This compares unfavourably with the national average of 7.1 per 100,000 of population. This dearth in the number of dental therapists has a detrimental impact on the delivery of oral health services to the New South Wales community. It is expected that removal of the restriction will over time result in an increase in the number of dental therapists engaged in clinical practise in New South Wales with a positive impact on oral health and a reduction in public sector waiting lists.

The second amendment to the Dental Practice Act relates to notifications of mentally incapacitated practitioners. The various health professional registration Acts provide that if a registered practitioner becomes a mentally incapacitated person, that is a person who is an involuntary patient or a forensic patient within the meaning of the Mental Health Act or a protected person within the meaning of the Protected Estates Act, the relevant registration board is to be notified of that fact. At the moment these provisions apply to dentists and dental auxiliaries but not to dental students. Dental students, like medical students, are registered by the Board due to the significant patient contact that they have and to ensure that the impaired practitioner provisions of the Act apply to them. In keeping with this approach it is appropriate that the Board be notified of dental students who become mentally incapacitated so that appropriate support structures may be put in place by the Board to assist those students to overcome their mental health problems.

The amendments in Schedule 2.6 and 2.7 relate to the Medical Practice Act 1992. Firstly amendment number 1 in Schedule 2.6 is an amendment to section 4 of the Act and concerns qualifications for registration as a medical practitioner. The proposed amendment will establish a mechanism for approved international medical graduates with appropriate qualifications and experience to obtain registration following a period of supervised workplace training.

Appropriate international medical graduates would be granted advanced standing by the Australian Medical Council following which they would be eligible for temporary registration on the condition that they practice in a supervised position whilst being assessed as to their competence and eligibility for general registration.

The proposed mechanism will provide a streamlined pathway to registration for appropriately qualified and experienced international medical graduates and has received national endorsement.

Secondly amendment number 5 in Schedule 2.6 and the amendment in Schedule 2.7 relate to notifications of mentally incapacitated practitioners. These amendments are in the same terms to the amendments to the Dental Practice Act that I have already discussed and the same rationale applies to these amendments to the Medical Practice Act.

Thirdly amendment numbers 10 and 15 in Schedule 2.6 relate to the power of the Medical Board to delegate its functions.

Unlike other health professional registration Acts the Medical Practice Act does not expressly authorise the Board to delegate its functions to a committee. Rather section 136 of the Medical Practice Act provides that the Medical Board may delegate its functions to a person.

In October 2000 the Medical Board established a performance review program to address concerns about medical practitioners who may have been practising at a sub-optimal level. The program is designed to provide an alternative pathway for dealing with practitioners who are neither impaired nor guilty of professional misconduct, but for whom the Board has concerns about the standard of their clinical performance. The program is designed to address patterns of practice rather than one off incidents unless the single incident is demonstrative of a broader problem, and provides an avenue for education and retraining where inadequacies are identified, while at all times ensuring that the public is properly protected.

Relying on the broad power of delegation in section 136 of the Act the Medical Board has delegated its functions in respect of performance assessment to a committee called the Performance Committee.

This delegation has recently been challenged on the basis that a committee is not a person.

The Medical Board has received advice from Senior Counsel that the delegation power in section 136 of the Medical Practice Act should be construed so as to include a reference to a committee established under section 133 of the Act. If the power of delegation were construed in this fashion the Board's delegation is valid. However Counsel considers that the matter is not beyond doubt and that it would be advisable to amend the Act to put this matter beyond argument.

If the current challenge to the validity of the delegation to the Performance Committee were successful it may call into question all actions taken by the Committee and all performance reviews undertaken by the Board since the program was introduced in October 2000. All such actions by the Board in implementing the performance review program have been undertaken in good faith and for the purpose of protecting the public from underperforming medical practitioners. Undermining the actions of the Board in these matters would not be in the public interest and, in order to prevent protracted legal argument, the board's previous delegation of its functions to committees established under section 133 of the Act should be retrospectively validated.

Lastly the other amendments in Schedule 2.6 relate to those provisions of the Medical Practice Act that permit the Board to order a medical practitioner to undergo a medical examination. The proposed amendments will allow the Board to order that a medical practitioner undergo an examination by a registered health professional designated by the Board.

The Medical Board has sought the amendment so that it may in appropriate cases require a practitioner to be examined by a psychologist or other health professional with particular qualifications and skills. Similar broad powers to require practitioners be examined by a registered health practitioner rather than a medical practitioner already exist in the Nurses and Midwives Act 1991.

The amendments in Schedule 2.9 relate to the Nurses and Midwives Act 1991. In July 2004 the Nurses and Midwives Act was amended by the Nurses and Midwives (Performance Assessment) Act 2004. That Act inserted Part 4A in the Act to provide a performance assessment program for nurses and midwives. The program is modelled on the successful performance assessment program in the Medical Practice Act. Due to a drafting oversight at the time performance assessors were not provided with the standard statutory protection from personal liability for acts done in good faith in the exercise of their duties. The proposed amendments correct this oversight.

The amendments in Schedule 2.10 propose amendment of the Optometrists Act 2002 to permit the Optometrists Registration Board to charge an application fee when a registered optometrist applies for an optometrist's drug authority. Any such fee to be charged is to be determined by the Minister following consultation with the Board.

The amendments in Schedule 2.11 propose an amendment to the Pharmacy Practice Act 2006 to allow for regulations to be made establishing infection control standards to be followed by registered pharmacists in their professional practices.

The Pharmacy profession has expressed its interest in offering to the public a range of health care services such as blood glucose screening and a vaccination service. In the event that this type of service, involving skin penetration and the associated risk of blood borne infections, is offered by pharmacists it is important that public health is protected by ensuring that robust infection control standards are in place. Infection control standards are currently prescribed for a range of health care practitioners including medical practitioners, dental practitioners, nurses and midwives.

The proposed amendment to the Health Administration Act 1982, that is contained in Schedule 2.4 of the bill, will clarify that the employment related costs associated with New South Wales Health Service staff who are engaged to provide services for the wholly self-funding health professional registration boards may be met from the funds of the boards.

Schedule 2.5 of the bill contains proposed amendments to the Health Services Act 1997. Amendments 1, 2 and 3 in Schedule 2.5 propose a structure to allow the Director-General of Health to delegate her functions with respect to the provision of ambulance services to a body appointed for that purpose.

Prior to the passage of the Public Sector Employment Legislation Amendment Act in 2006 ambulance services were provided by the Ambulance Service of New South Wales, which was a statutory corporation established under the Ambulance Services Act 1990. That Act made the Director-General of Health responsible for the provision of ambulance services in New South Wales.

The Director-General of Health currently has the power to delegate her functions with respect to the provision of a range of health support services to appointed bodies. The proposed amendment will allow for a similar power of delegation with respect to the provision of ambulance services.

Amendment 4 in Schedule 2.5 provides that a committee of review, appointed under Part 4 of Chapter 8 of the Health Services Act, may refer concerns about the performance or competence of the applicant to the Medical Board or the Dental Board as appropriate.

Committees of review are appointed by the Minister to hear appeals from visiting practitioners (either medical practitioners or dentists) who have had their clinical privileges reduced; who have not been reappointed as a visiting practitioner; or who have had their appointment suspended or terminated. Appeals are generally heard in camera and the Committee's report is confidential to the parties and the Minister. Committees of review are currently unable to refer any concerns they may have about a practitioner's ongoing competence or performance to the appropriate registration board. This is an important public safety matter and the proposed amendment will allow any such concerns to be addressed in an appropriate manner.

Amendment 5 in Schedule 2.5 provides for amendment to the Health Services Act to provide a protection from personal liability for any person who in good faith assists in a review of the performance or conduct of a member of the New South Wales Health Service or a visiting practitioner. This amendment will assist public health services in obtaining the assistance of practitioners, and other people, in assessing and reviewing the performance or conduct of employees within the public health system.

Amendment 6 in Schedule 2.5 provides for amendment of the Health Services Act 1997 to include the provision of prostheses and medical devices within the definition of health service.

The question has arisen as to whether the supply, as well as the fitting, of prostheses and medical devices (such as heart pacemakers) is included within the definition of health service. While this matter has always been addressed by treating the supply and fitting of medical devices and prostheses as a single instance of service, and therefore within the definition of health service, in order to avoid any dispute it is considered prudent to amend the Act to clarify that the supply of therapeutic goods, such as medical devices and prostheses, is a health service.

The amendments in Schedule 2.8 relate to the New South Wales Institute of Psychiatry Act 1964. The purpose of this amendment is to allow for additional flexibility in appointing the Board. The amendment will allow for an experienced clinician from the public health system to be appointed to the Board of the Institute whilst ensuring that clinical expertise is not lost to the system.

The amendments in Schedule 2.12 relate to the Poisons and Therapeutic Goods Act 1966. The proposed amendment will allow the Director-General of Health to suspend or cancel the right of a medical practitioner, dentist, nurse practitioner, midwife practitioner, pharmacist, optometrist, or veterinary surgeon to possess and supply drugs and substances in schedules 2, 3 and 4 of the Poisons List.

Currently the Act confers an automatic right for the relevant professions, other than optometrists, to possess these medications. There are a number of substances in Schedules 2, 3 and 4 of the Poisons List, including benzodiazepines, anabolic steroids and pseudoephedrine that are from time to time subject to misuse including unlawful supply and self-administration.

The Director-General of Health currently has the power to restrict, suspend or cancel the right of a practitioner to possess and supply drugs of addiction. The proposed amendment will ensure that the same powers exist with respect to all scheduled substances.

The amendments in Schedule 2.13 relate to the Public Health Act 1991. Firstly amendment number 1 in the Schedule addresses a technical difficulty with the operation of the New South Wales cancer registry which is administered by the New South Wales Cancer Institute on behalf of the Director-General of Health. Approximately 7 per cent of cancer notifications made to the Registry each year are incomplete or contain discrepancies between the notification and the pathology report that accompanies it. The number of these cases detracts from the overall accuracy of the Cancer Registry and therefore the ability of the Registry to achieve its objectives in monitoring the rates and trends on specific types of cancer in New South Wales.

As the law currently stands the Cancer Registry is unable to contact treating medical practitioners to resolve these discrepant and incomplete notifications as a medical practitioner who provided patient information to the Registry would, in the absence of an express authorisation by the patient, breach his or her obligations under privacy laws.

The proposed amendment will ensure that the Registry can obtain from medical practitioners the information it needs to fulfil its public health surveillance role.

Amendments 2 to 4 in Schedule 2.13 deal with the sale of tobacco products. As members will be aware tobacco smoking kills approximately 6,500 people and is the main cause of over 55,000 hospital admissions in New South Wales each year. The cost of smoking to the New South Wales community is some \$7 billion per annum, of this the direct cost health care cost is almost half a billion dollars.

The nicotine in tobacco smoke is an extremely addictive drug. Both the former US Surgeon General and the Royal College of Physicians are on record as stating that the pharmacologic and behavioural processes that determine tobacco addiction are similar to those that determine addiction to drugs such as heroin and cocaine.

It is estimated that more than 90 per cent of adult smokers commenced smoking during their teenage years. Fruit and confectionary flavoured tobacco products are marketed to young people and are often promoted as having a cleaner and healthier image than traditional tobacco products. This image is misleading as these products are just as dangerous and addictive as other types of tobacco. The amendments in amendment number 3 of Schedule 2.13 will allow the Minister for Health to ban, by way of order in the Government Gazette, these types of tobacco product. Similar bans have previously been implemented in South Australia and Tasmania has recently passed amendments to its public Health Act to ban the sale of fruit and confectionary flavoured or scented tobacco and tobacco products.

The sale of tobacco products to anyone under the age of 18 years is a criminal offence. Therefore it seems somewhat anomalous that tobacco products are aggressively marketed at youth events and musical festivals. The sale and marketing of tobacco

products at these events is aggressively promoted by tobacco manufacturers and as I have already noted some 90 per cent of adult smokers commenced smoking whilst still teenagers. Accordingly in keeping with the Government's commitment to reduce the exposure of children and young people to tobacco this bill contains amendments to the Public Health Act to prohibit the sale of tobacco products from mobile or non-permanent premises.

The ban on mobile sales of tobacco products will also apply to the sale of tobacco products carried by a person for sale in a public place. This part of the amendment is designed to prevent the sale of tobacco by the so-called "tobacco girls" who are often found selling tobacco products in licensed premises. I emphasise for the benefit of members that this amendment is not designed to affect the activities of workers who carry and deliver tobacco products to shops and other premises for regular retail sale.

Finally I turn to the amendment to the Smoke-free Environment Act 2000 that are contained in Schedule 2.14 to the bill. This amendment, and the cognate amendment to the Fines Act in Schedule 2.3, will allow for penalty notices, or on-the-spot fines, to be issued by authorised officers for breaches of the Act. Penalty notices would be issued subject to strict guidelines approved by the Department of Health and only for offences by individuals, such as the offence of smoking in a non-smoking area. More serious offences by occupiers of premises would continue to be dealt with by way of court action due to the very important educative value of dealing with this type of matter in public.

I commend these amendments to the House.

The Hon. JENNIFER GARDINER [10.43 p.m.]: Like the Commission for Children and Young People Amendment Bill 2007, the Health Legislation Amendment Bill 2007 can be described as a machinery bill, or a bill that tidies up various pieces of health legislation. It is the sort of bill that we expect to see at this late stage in the parliamentary year. Nevertheless, it contains some important provisions, and I will address some of the more notable ones. The bill will allow the chairperson or deputy chairperson of a health professional disciplinary tribunal to continue to sit on the tribunal after the expiry of that person's term of appointment in certain circumstances. Tribunal members are appointed for seven years, and in the past the expiration of a term has disrupted cases before them and forced other arrangements to be made. The bill resolves that problem.

The bill extends the existing power of disciplinary tribunals, professional standards committees and boards established under health professional legislation so they may issue orders precluding the disclosure of particular types of information that are capable of identifying the person to include orders in respect of information, pictures and other material. It requires the New South Wales Medical Board and the New South Wales Dental Board, as the case may be, to be notified if a registered medical student or a registered dental student becomes mentally incapacitated. That is obviously an important provision. As to the scandalous situation in New South Wales regarding dental waiting lists and the shortage of dental services available to the people of this State, the bill will remove a restriction on registered dental therapists who carry out dental auxiliary activities other than as an officer or employee of, or a contractor to, a public sector agency or prescribed body.

In New South Wales dental therapists are allowed to practise only in the public sector. As usual with matters relating to dental health, New South Wales is dragging the chain. All other States in Australia have removed this restriction. New South Wales currently has only 2.6 dental therapists per 100,000 people compared with the national average of 7.1 per 100,000 people. I have spoken at length in the House about the scandalously and unbelievably long waiting lists for dental services in New South Wales. If this provision means that dental services will be available to a wider group in our community, it is most welcome.

The bill also enables a committee of review under the Health Services Act 1997 to refer matters to the Medical Board or the Dental Board, as appropriate, to be dealt with as a complaint when the committee is of the opinion that serious concerns exist in relation to the performance or competence of an appellant, the appellant has engaged in conduct that may constitute professional misconduct or unsatisfactory professional conduct, or the appellant may suffer from an impairment. The bill provides that no liability attaches to persons in connection with the conduct of a disciplinary review of a member of the New South Wales health service. It makes clear that the supply or fitting of a prosthesis or therapeutic device is a health service within the meaning of the Health Services Act 1997.

Importantly, in relation to overseas-trained doctors, it entitles persons with medical qualifications granted overseas to be registered as a medical practitioner in certain circumstances. In that regard the bill seeks to streamline the pathway to registration for appropriately qualified and experienced international medical graduates. The bill amends the Medical Practice Act 1992 by inserting new section 4 (2), which states:

A person has recognised medical qualifications if the person:

- (a) is a graduate of a Medical School (whether within or outside Australia) accredited by the Australian Medical Council, or
- (b) has successfully completed examinations held by that Council for the purposes of registration as a medical practitioner, or

- (c) has received a certificate or other kind of qualification in accordance with the process approved by the Board for the purpose of qualifying a person for registration as a medical practitioner.

That is certainly an important addition to the Medical Practices Act. The bill also enables the Medical Board to order a medical practitioner who is the subject of a complaint or injury to be examined by a specified registered health practitioner. It makes clear that the Medical Board and the registrar can delegate certain functions to groups of persons, including committees established under the Act to which I have just referred. It allows certain senior employees and executives to be appointed as a member of the New South Wales Institute of Psychiatry. In relation to the pharmacy profession, the bill enables regulations to be made setting infection control standards to be followed in the practise of pharmacy, which is an important provision. The bill also enables the Director General of Health to make an order to prohibit or restrict certain persons from the possession, supply or prescription of poisons in certain circumstances, and provides authorisation for the director general to do certain other things.

The bill will prohibit the sale of tobacco products which have a distinctive fruity, sweet or confectionary-like character. It will also prohibit the sale of tobacco products by a vendor carrying the products for sale on his or her person, or from a mobile or temporary structure. The Opposition notes that more than 90 per cent of adult smokers commence smoking during their teenage years, and fruit and confectionery flavoured tobacco products are marketed at young people to try to suck them in, so to speak, and get them hooked on tobacco. In prohibiting the sale of those tobacco products, the bill seeks to reduce the exposure of children and young people to tobacco products, and the Opposition strongly supports those provisions.

In brief, the bill sets out to provide for the more efficient operation of various health disciplinary tribunals and regulatory boards, and hopefully, even in a small way, it will assist in widening the scope of dental therapists to practice in the private sector. We trust that it will improve the registration process for international medical graduates, and limit the vulnerability of young people to the sale of tobacco products that have a fruity or confectionery-like character. For those reasons, the Opposition does not oppose the bill.

Ms LEE RHIANNON [10.52 p.m.]: The Health Legislation Amendment Bill 2007 makes minor amendments to a number of health-related bills. The Greens will not oppose this bill. I will not go through each section of the bill, instead I will draw out the more significant changes regarding dentists and tobacco sales. One of the more significant amendments in this bill is the amendment to the Dental Practice Act. This bill removes section 33 (2) of the Act, which prevents dental therapists from practising in the private sector. I have contacted the Australian Dental Association [ADA] regarding this amendment, and understand that it does not oppose this bill so long as dental therapists continue to practise within the skills and competencies for which they have been trained.

The ADA supports the requirement under the Dental Practice Act that a registered dental auxiliary, such as a dental therapist or dental hygienist, is subject to the practice oversight of a registered dentist. I understand that the ADA is in the process of discussing new oversight guidelines with NSW Health and the Dental Board of New South Wales, flowing from this amendment. Will the Minister in his reply give an assurance that the ADA will continue to be included in those discussions? That is an easy question for the Minister to answer, and I look forward to his response.

The Minister in his agreement-in-principle speech, promoted this amendment as a means to increase the number of dental therapists engaged in clinical practice, thereby reducing public sector waiting lists. That claim seems a bit far-fetched and warrants greater explanation. We know that dental waiting lists in New South Wales are appalling. This initiative will probably take five to seven years before we begin to see any significant impact. I understand that current dental therapist numbers are small—less than 300—and training requires a three-year degree. Further, it is completely unclear how removing the restriction will lead to a reduction in public sector waiting lists. If anything, dental therapists will be tempted to leave the public sector for the higher wages on offer in the private sector. The more likely outcome is that current waiting times in the public sector will be aggravated. Unless public sector wages for dentists and dental auxiliaries are made more competitive, those waiting lists will simply continue to get worse.

In relation to amendments to the Public Health Act, the Greens support moves in this bill to stop so-called tobacco companies employing young women to sell cigarettes in licensed premises. We should prohibit the sale of tobacco from mobile or non-permanent premises, such as festivals. The Greens also support amendments allowing the Minister to ban the sale of cigarettes that are flavoured to be fruity, sweet or like confectionery. Those products are marketed primarily at children and young people. I hope that all members agree that the jury is well and truly in on the health impacts of tobacco. It is estimated that 90 per cent of adult smokers began smoking in their teenage years. It is clear that we need to nip in the bud any advertising that is so

blatantly targeted at young people. On the tobacco side of the ledger this bill is a plus, but more work needs to be done. The Government needs to pick up its game in relation to the alcohol industry because, like the tobacco industry, we know that some companies specifically target young people: it is wrong and it needs to be dealt with. The Greens will not oppose this bill.

Reverend the Hon. FRED NILE [10.56 p.m.]: The Christian Democratic Party supports the Health Legislation Amendment Bill 2007, which is almost a statute-at-law bill as it amends a number of bills that relate broadly to the health sector. The bill amends the following Acts: Health Professional Registration Act, Dental Practice Act, Health Administration Act, Health Services Act, Medical Practice Act, New South Wales Institute of Psychiatry Act, Optometrists Act, Pharmacy Practice Act, Poisons and Therapeutic Goods Act, Public Health Act and the Smoke-free Environment Act. The proposals are not controversial and the Christian Democratic Party has not been lobbied by any of the respective boards opposing the changes to the legislation and I assume those boards have asked for the amendments.

I commend the Government for the amendments to the Public Health Act, which will ban the sale of fruit and confectionery flavoured cigarettes. Confectionery and fruit flavoured cigarettes are marketed primarily at children and young people. The tobacco industry tries to get young people hooked on cigarettes, and then it has customers for life until they quit or die. South Australia has previously banned those products. The amendments prohibit the sale of tobacco products by mobile vendors or from mobile or temporary premises. I urge the Government to give further consideration to the prohibition of smoking in cars, especially cars with children in them. I know that is being discussed again in Victoria and other States, but I think New South Wales should take the lead on that issue as well as the prohibition of the public display of cigarette packets in retail shopping centres as a marketing ploy by the tobacco industry.

The Smoke-free Environment Act will be amended so that penalty notices, on-the-spot fines, may be issued for offences under the Act. Penalty notices would be issued for offences by individuals, such as refusing to stop smoking in an enclosed place. Once again we need to ensure that the laws dealing with smoking in enclosed places are black and white and that patrons in clubs and other places fully understand them. At present there is some confusion as to what is legal and what is illegal in so-called enclosed places. I believe the Government should rectify that issue urgently. We support the bill.

The Hon. DON HARWIN [10.59 p.m.]: I note that a number of provisions in the Health Legislation Bill 2007 arise directly from some of the matters dealt with by the Joint Select Committee on Tobacco Smoking, which of itself arose from a private member's bill introduced by Reverend the Hon. Fred Nile some time ago. The joint select committee was established in the final year of the last Parliament.

Reverend the Hon. Fred Nile: The smoking in cars bill.

The Hon. DON HARWIN: I thank Reverend the Hon. Fred Nile. Indeed, his smoking in cars bill was the catalyst and part of the reference for the joint select committee. During the inquiry we took extensive evidence on the issue of the sale of tobacco products with a distinctive fruity sweet or confectionery-like character. In particular, this has been a tactic of a number of tobacco companies in order to increase smoking among young people, especially young woman—that was the evidence we received. The committee certainly considered that matter during the inquiry and referred to it in its report. I remain concerned about the capacity of companies to try to increase juvenile smoking through the production and sale of such products. I am pleased to see that a specific power in the legislation will ensure that the Government has the wherewithal to proceed in this area.

I note that this bill will prohibit the sale of tobacco products by a vendor carrying the products for sale on his or her person or from a mobile or temporary structure. That is an important step forward as well, and I congratulate the Government on taking action on that issue. The joint select committee canvassed other matters extensively, and I encourage the Government to continue to push forward and take proactive steps to ensure that we deal with the sale of tobacco products as effectively as possible. I do not need to detail the statistics in terms of the costs to the public health system related to smoking. It is a tragedy that such a large amount of public health dollars need to be spent on dealing with the consequences of tobacco smoking.

I note that the bill will empower an authorised inspector to issue penalty notices for offences under the Smoke-free Environment Act 2000. This was possibly the most difficult issue the committee had to deal with. It is important to provide smoke-free areas, particularly on licensed premises. That matter was dealt with extensively in legislation some time ago. The provisions in this bill are a small step forward in terms of

providing smoke-free areas, and that is a good thing. With those few comments, I commend the legislation to the House. Of course, the Opposition will not be opposing the bill.

The Hon. MELINDA PAVEY [11.05 p.m.]: I take this opportunity to add to the contribution of the Opposition in debate on the Health Legislation Amendment Bill 2007. Government members may have noticed that we received some very late advice from concerned people in New South Wales about the unintended consequences of the legislation. As previous speakers have pointed out, that is what happens when legislation is dumped on us at the last second without proper consultation. I will not go into that, other than to say that there is concern about the ban on the sale of cigarettes from mobile vehicles. Anyone who has worked in an industrial estate knows that there is not usually a sandwich or lunch shop nearby, so a smoko van travels around industrial estates. I can see the Hon. Greg Donnelly nodding his head.

The Hon. Greg Donnelly: Most of them are members of the estate.

The Hon. MELINDA PAVEY: That is not my experience. However, the point remains that we all know smoking is bad, but it is a choice that adults make. It is also a choice of adults to work in factories and to have a sandwich and perhaps a packet of cigarettes delivered for lunch. That is their right but not under this legislation. So this bill will have an impact on small business and on workers who may not work efficiently without their cigarettes for the afternoon. It is worth considering that, given that the legislation was introduced quickly.

The Hon. Penny Sharpe: Productivity arguments.

The Hon. MELINDA PAVEY: The Hon. Penny Sharpe referred to productivity arguments. That is worth considering. As a strong union representative, the Hon. Greg Donnelly would appreciate that these provisions will have an impact on workers on factory sites, for example. He may be one of the few remaining Labor Party members who have connections with people working on industrial sites. The issue of fruity flavoured tobacco products has also been raised; there is genuine concern about that. The point made to us very late in the piece is that it would be better to label the products as fruity flavoured cigarettes. For example, it appears that an attempt was made in Tasmania to ban menthol cigarettes.

The Hon. Penny Sharpe: There would be a lot of people concerned about that.

The Hon. MELINDA PAVEY: The Hon. Penny Sharpe rightly interjects that many people will be concerned about that. That is another issue that needs to be put on the record. It is important to point out that the sale of tobacco products at pop concerts and to people under the age of 18 is already illegal. This information was brought to our attention at the last minute. As I have pointed out, these problems arise when we do not have time to properly consult and discuss these issues with the community. The impact of the legislation on small business should be considered in terms of selling cigarettes from mobile vans.

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.09 p.m.], in reply: I thank honourable members for their contributions to this debate. The bill contains a large number of minor amendments to various health Acts. I thank honourable members for their patience in dealing with these matters. Although in many respects they are minor amendments, they are important to the ongoing functioning of the health system. Ms Lee Rhiannon raised a number of issues about amendments to the Dental Practice Act relating to dental therapists. I can advise that the Australian Dental Association has been consulted and does not oppose the amendments. The association will be consulted, as practice oversight guidelines are refined for dental therapists. I can also advise the House that New South Wales Health anticipates that the removal of section 33 (2) of the Dental Practice Act will assist in encouraging retired dental therapists to return to clinical practice. The experience of other jurisdictions is that similar moves resulted in dental therapists commonly working in both the public and private sectors. This bill is expected to have a positive impact on oral health in New South Wales. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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.

JOINT SERVICES OF THE PARLIAMENT ANNUAL REPORT

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

- (1) That, if the House is not sitting, the Clerk may table the Joint Services annual report 2006-2007 with the President.
- (2) On tabling with the President the report is:
 - (a) on presentation, and for all purposes, deemed to have been laid before the House,
 - (b) authorised to be published and printed by authority of the House, and
 - (c) to be recorded in the minutes of the proceedings of the House when the House next sits.

SPECIAL ADJOURNMENT

Seasonal Felicitations

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [11.11 p.m.]: I move:

That this House at its rising today do adjourn until Tuesday 26 February 2008 at 2.30 p.m. unless the President, or if the President is unable to act on account of illness or other cause, the Chair of Committees, prior to that date by communication addressed to each member of the House, fixes an alternative day or hour of meeting.

As we will not be sitting again until next year, I take this opportunity to thank all members of staff, the Clerks at the table, and in particular John Evans, who has moved on to greener pastures. I particularly thank the Committee staff, who are unsung heroes and work so very hard. I thank the attendants, security staff, Parliamentary Library staff and all the other staff of Parliament House who make this place tick over seamlessly throughout the year. Things have changed a bit in the last year or two. Hopefully they will not change too significantly in the year to come. I also want to thank the members of this House for their cooperation. I often remind my lower House colleagues that in this place, despite the Government not having a majority and with no time limit on our speeches, we get through exactly the same amount of business as they do but in 80 per cent of the time. It is not a reflection on the other place, but it is a reflection on the cooperation shown by the members of this House in ensuring that we do the right thing for the betterment of the community and the State. I thank all the staff and all the members of this House.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.13 p.m.]: On behalf of the Liberal Party I wish all members season's greetings for Christmas and the New Year. I thank all members of the Chamber for their contributions in debate and their work for the betterment of the people of New South Wales in their role as legislators in this Chamber. The 2006 parliamentary year in the lead-up to the last State election seemed to be a very short year. We were no sooner debating legislation, preparing policies, arguing the pros and cons of issues and, wham, we were in the last few months of 2006. It went so incredibly quickly. It is fair to say that 2007 has been an incredibly long year. It has been a long year for members who, in addition to their usual work as members of the Legislative Council, have been in constant election mode for 12 months. It has been draining. All members should take pride in the way they have conducted themselves in this Chamber. On occasions debate becomes heated and it has been a tough year. But in the main we rarely go anywhere near what could be considered a personal attack. I believe that is due to the conduct of the members and also the President. In your first year as President of this House you have returned a degree of decorum and humour to the position. I wish you well for next year. It has been a very enjoyable year. My colleague the Hon. Duncan Gay is nodding in agreement.

On behalf of the Liberal Party I also extend season's greetings and well wishes to the Legislative Council staff and attendants, our hard-working friends at Hansard, security personnel and the support personnel in the Parliamentary Library, printing and catering. They all play a role in keeping the wheels of Parliament

turning. I ask that members spare a thought for them this year. Some go into the Christmas and New Year with uncertainty about their ongoing role in the Parliament. I would like to think that good sense and fairness will prevail, that 2008 will be a good year for those who work behind the scenes, and that they will play a continuing role in the New South Wales Parliament. I thank the Government Ministers, in particular Tony Kelly in his role as Leader of Government business. I also thank Leellen, who has filled Virginia's shoes—a tough act to follow. On behalf of all members I wish Virginia Knox all the best for Christmas and the New Year. In conclusion, I particularly thank my colleagues on this side of the House—Duncan Gay, the Leader of The Nationals, Matthew Mason-Cox in his first year as Deputy Leader of the Liberal Party, our Whip Don Harwin, our Deputy Whip Rick Colless and all the members of the Opposition. They have all played a role in the team. From our perspective, it has been a very productive year and we have been able to pursue a strong agenda for the people we represent in this Parliament, the people of New South Wales who want good government.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.17 p.m.]: First of all, Mr President, I join with Mike Gallacher in congratulating you on returning commonsense, dignity and a sense of humour to the presidency. I will be brief tonight because my colleagues told me that I took up more than my quota of time last night on the GM bill. So I am on a tight rein. The Whips have done a great job. They keep the place ticking over and do a fabulous job. They seem to know what is happening when the rest of us do not. They have a secret code, which they keep away from the rest of us. Every time I try to learn the code they get away from me. I pay tribute to my crew—my deputy Jenny who does great work, particularly on the committees of this Parliament, Rick Colless, Mel and Trevor, that strange, new, interesting Nationals guy. He is marvellous. I wish them all the best for Christmas. I want them back because I have not finished a few blues with a couple of them, even with the evil Eric.

The year 2007 has been a tough year for staff. I can see our friends in Hansard, who make us look good. One of my colleagues was not so good, but Hansard made him look so good that he stayed longer than he should have. This year has been a good year from the start, but a tough year. The Leader of the Government mentioned some of the changes and said he hopes there will be no more changes. Frankly, I hope there are some changes that put back some of the things that have gone, because we have lost good staff this year, voluntarily and compulsorily. The Leader of the Government mentioned the former Clerk. Frankly there was only one good Evans who was a Clerk of the Parliaments, and his name is John—and there is another Evans.

The Hon. Tony Kelly: What about Ace?

The Hon. DUNCAN GAY: No, Ace was not a Clerk of the Parliaments. I congratulate Lynn Lovelock and her team. In conclusion I mention regional New South Wales and the bush, where a few people will be doing it tough this Christmas. People in the bush sometimes think that people in the city do not care about the bush, and as parliamentarians we know that is not the case, because a lot of people in the city do care. People in the bush need to hear that message and they need that support. I wish everyone all the best.

Reverend the Hon. FRED NILE [11.20 p.m.]: On behalf of the Christian Democratic Party and Reverend the Hon. Dr Gordon Moyes, who is having some medical tests in hospital, I join with other members to express our wishes for a joyful and blessed Christmas for all members of the House. Christmas is especially important for our party as we celebrate the birth of Jesus Christ, our Saviour, which is the whole purpose of Christmas. I will read a passage from the *Bible* that reminds us all of that simple story. Matthew 1:18 states:

Now the birth of Jesus Christ was on this wise:

When as his mother Mary was espoused to Joseph, before they came together, she was found with child of the Holy Ghost.

Then Joseph her husband, being a just *man*, and not willing to make her a public example, was minded to put her away privily.

But while he thought on these things, behold, the angel of the Lord appeared unto him in a dream, saying, Joseph, thou son of David, fear not to take unto thee Mary thy wife; for that which is conceived in her is of the Holy Ghost.

And she shall bring forth a son, and thou shalt call his name JESUS; for he shall save his people from their sins.

Along with other members who have spoken, I express my appreciation to all those who have helped us during 2007. I thank the President for the opportunities I have been given this year to assist him in his duties. I thank the new Clerk, Lynn Lovelock, and her deputy, David Blunt. I thank Hansard, the attendants, the library staff, security, the secretarial staff on all the committees and catering. I thank also the leaders of the Government, especially Tony Kelly for his cooperation and understanding as we proceeded through the year. I thank the Leader of the Opposition and the Deputy Leader of the Opposition, Michael Gallacher and Duncan Gay. May

almighty God bless each one of you and your families as we celebrate Christmas and enjoy our Christmas holidays.

The Hon. ROBERT BROWN [11.23 p.m.]: On behalf of my colleague the Hon. Roy Smith and the Shooters Party, I express felicitations to all in the House and in the Parliament who have helped Roy and me. I particularly thank you, Mr President. In your new role you are doing a damn fine job. I also express a personal thank you to the new Clerk of the Parliaments, Lynn Lovelock, without whose help Roy and I would probably have made bigger fools of ourselves than we did. Thank you to our friends in Hansard, who make us all sound a lot better than we are. I wish you all a merry Christmas and peace and joy.

Dr JOHN KAYE [11.24 p.m.]: On behalf of the Greens I join with other members in expressing our felicitations to all members. As a new member of this House—and everyone would have had this experience—the most remarkable thing is not dealing with John Hatzistergos, or Count Dracula as he was referred to in the film last night, it is a sense of being cared for.

[Interruption]

But not by the Hon. Melinda Pavey either. The most remarkable experience is the sense of being cared for in everything I do. At the start of the day, the cleaning staff do a wonderful job. I pay particular tribute to Irene and Santiago, who turn my office into a habitable place and do so with great cheer. Every morning they keep me informed about what is happening in the world. I thank all the cleaning staff, the library staff, the committee staff, the catering staff, the Chamber support staff, the Clerk and the staff of the Clerk, the Hansard staff, who, remarkably, put up with my handwriting, security and all those I may have missed out. I thank all those people who care for us and whom we sometimes do not acknowledge appropriately, and sometimes I do not acknowledge appropriately. To all of them I say thank you very much for making my first nine months here successful and enjoyable.

To you, Mr President, I have probably been a difficult member of Parliament from time to time—or maybe not. I have learnt a lot from the way you have dealt with interjections from members, such as Duncan Gay, and the way you have kept good humour about it and kept this Chamber operating. I thank you for your tolerance and the level of judgment that you have brought to the job. To all my colleagues, thank you for the education—sometimes by fire, sometimes by example and sometimes by a combination. I hope you all have a safe and happy experience over the next two months until we get together again.

[Interruption]

I will not waste the time of the House on a philosophical dissertation on my personal beliefs on how the Earth came into existence. I hope you all have a good break.

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [11.27 p.m.], in reply: I make particular mention of the fact that today is the last parliamentary sitting day for Miss Annie Marshall, who is retiring in January after 16 years of working with the Legislative Council committees, particularly for the State development committee while I was its Chair, and the social issues committee. On behalf of her colleagues and members I thank Annie for her work for the Legislative Council. I wish her and her husband, Terry, all the best for their retirement. Some members may remember that Annie was involved in the New Year's Day bushfires when she visited her daughter and went home to find herself excluded from her street. Her house had burnt down. Members and staff of the Parliament held an auction to try to assist Annie. She has had some difficult times in the past. Everyone in the House would like to thank Annie and congratulate her and wish her all the best for her retirement. And thank you to everyone.

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

Motion agreed to.

ADJOURNMENT

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [11.29 p.m.]: I move:

That this House do now adjourn.

MORTGAGE BROKING INDUSTRY

The Hon. CATHERINE CUSACK [11.29 p.m.]: Competition in Australia's housing finance market was dramatically increased in the mid-1990s with the entry of specialist mortgage lenders and an increase in foreign bank activity in our local housing market. I would like to pay tribute to Australia's mortgage broking industry for the contribution made to economic growth; the savings delivered to consumers; the increased access to credit that has been achieved, particularly through the responsible development of low-doc loans; and for the high standards the industry has proactively set, particularly through the Mortgage and Finance Association of Australia and its chief executive, Phil Naylor. I also acknowledge the work of the Consumer Credit Legal Centre, and in particular its coordinator Karen Cox, who I had the pleasure of meeting at the successful *Choice Shonky Awards* last Tuesday.

There has been great deal of uninformed fear and anxiety that the Australian mortgage industry may be on the precipice of a crisis similar to that being experienced in the United States of America. In fact, thanks to the industry and the high standards it has set, and no thanks to governments that refuse to enshrine those standards in legislation, Australia does not have a vast slab of high-risk loans, as has been the case in the United States. The impact of the crisis is nevertheless being felt by our brokers, who are experiencing a squeeze accessing new finance. But the health of the existing loan book itself is very good compared with the position in the United States.

I draw the attention of the House to some of the achievements of the mortgage broking industry since deregulation in the mid-1990s. This allowed competition with banks and between banks. It should be remembered that a large slice of finance in mortgage broking is in fact being undertaken by the banks themselves in competition with smaller newcomers. The starkest result of deregulation has been a dramatic reduction in the cost of home loans. Interest margins relative to cash rate on prime-rate variable home loans have fallen from a 1993 peak of 450 basis points to the current average of 120 basis points—a huge decrease. In addition to these savings, establishment fees have fallen and are frequently waived in favour of an annual fee of between \$200 and \$300.

Recently the Reserve Bank and the Australian Prudential Regulation Authority's submission to a House of Assembly inquiry highlighted the range and benefits of product innovation. New products developed by non-mainstream lenders but now widely available include home equity loans, redraw facilities and reverse mortgages, which allow households to borrow against equity created in their homes. For first home buyers new products include interest only loans and shared equity loans, and lenders have allowed higher loan-to-valuation loans, which has enabled many opportunities for people to purchase property that would have been denied in the past. Both authorised deposit-taking institutions and unregulated institutions have modernised their lending practices. Debt serviceability criteria has been relaxed from a rule of thumb 30 per cent, which moves away from gross income ratios to net-surplus income models, with loans now allowing up to 50 per cent gross for higher income borrowers. There has been, of course a wider range of loan products.

The regulation of the mortgage industry is the responsibility of State governments, which, led by New South Wales, have rejected moves for a national financial regulator like the Australian Securities and Investments Commission, which only regulates the banks at present. The States say that their system of harmonisation is the way to go. The unspoken problem with this approach is the glacial pace at which harmonisation operates because one State with one minor concern can derail and delay the process for months, if not years. The mortgage broking industry has been pleading for regulation since 2002 to get rid of the rogues and secure the industry's reputation.

On 1 August 2003 the Ministerial Council of Consumer Affairs Ministers announced it would develop a consistent national regulation of finance brokers, which builds on the New South Wales Consumer Credit Administration Amendment (Finance Brokers) Act. The following year, on 27 August 2004, the Ministerial Council of Consumer Affairs Ministers communiqué noted:

... a regulatory impact statement on a model for consistent national regulation for finance brokers was currently being drafted. It is proposed that the statement would be released for discussion in September 2004.

This happened in December 2004—two months past deadline. A year later, in September 2005, the strategic agenda of the Ministerial Council of Consumer Affairs Ministers reported that New South Wales would complete its draft by March 2006. Of course, nothing was produced in March 2006 or at all that year. On 17 August 2007 the House of Representatives heard from the Assistant Governor of Reserve Bank, Dr Phillip Lowe, who expressed everyone's frustration saying:

The idea has been to try to get a common approach across the states. The process, though, has taken a long, long time and I think a number of people have become dissatisfied with that. I really think the process needs to be accelerated.

Finally last week, on 28 November 2007, the Minister for Fair Trading, Linda Burney, tabled an exposure draft of regulation of the finance and mortgage broking industry and flagged that it would be considered by all State and Federal Ministers at their next meeting in April 2008. To quote the Office of Fair Trading website:

The exposure draft seeks to ensure that only reputable, skilled brokers transact with consumers to obtain credit that suits their purposes and that they can afford.

It is a great relief that the painful wait for the New South Wales Government to produce a draft is over—four years and four months after it was tasked to do it. The preferred position has always been, and will always be, a single regulator approach. [*Time expired.*]

YOUR RIGHTS AT WORK CAMPAIGN

Dr JOHN KAYE [11.34 p.m.]: Together with thousands of Australians, including union members and officials, community leaders, and the Banton family, I farewelled Bernie Banton this morning at a State funeral at Homebush. It was a fitting tribute to a great and decent Australian that so many people came together to celebrate his life and his signature role in the achievements of the campaign for justice for the victims of James Hardie and their callous response to asbestos-related diseases. Bernie Banton became more than just an integral part of the union movement's success in forcing James Hardie to make restitution to those whose lives it had so egregiously injured and cut short. He became a symbol of the Your Rights at Work campaign and its success in bringing to an end the Howard Government, and hopefully with it the WorkChoices anti-union legislation.

Perhaps even more importantly, Bernie Banton was part of a campaign that reminded Australians of the massive contribution of unions and unionism to their society, not only in meeting the challenges of the employees who seek to outrage the rights of working people but also in creating a fairer, more just and more democratic society. History will measure the Your Rights at Work campaign, not just for its role in getting rid of the Howard Government and not just for reinvigorating unionism. The greatest achievement of the campaign may well be that it reminded Australians of what we can achieve when we work together collectively for the common good.

The great social notions of the nineteenth and twentieth centuries were that market economies can and should be tamed and brought to serve all members of society by the power of people working together for the collective good. Your Rights at Work has shown these ideas to be relevant and powerful to the early twenty-first century. The Australian people were voting for more than just an end to the ideological excesses of the Howard Government; they were casting their vote for an economy where corporate power is moderated by people power. This goes beyond just a strong union movement. It also encompasses those other things Australians do collectively for the common good, including public education, public transport, public health, the pharmaceutical benefits scheme and public infrastructure ownership and control.

It is ironic that Labor owes its resurgence to a movement that is intimately intertwined with values that recognise the benefits of public ownership. It is particularly ironic here in New South Wales, where the Iemma Labor Government is hell-bent on privatising the electricity industry. Sale or long-term lease of State-owned generator companies and retailers is not only a breach of faith with the spirit of the Your Rights at Work campaign that elected the Rudd Government; it is also a dangerous and foolish move that will inflict untold economic, social and environmental damage on the State of New South Wales. Electricity privatisation will undermine supply reliability, push up prices and increase customer disconnections. It will lead to wholesale reductions in the workforce, outsourcing and a loss of the ability to innovate to meet new challenges.

It will undermine and limit the ability of the industry to control energy demand and increase the penetration of renewable energy sources like wind power. And in New South Wales, where privatisation is inseparably intertwined with building a new baseload power station, it will push up greenhouse gas emissions. But worst of all, privatisation will take away from the people of this State the ability to run their electricity industry in the best interests of all of us. Instead, the Iemma Labor Government proposes handing over to the corporate boardrooms in the high-rise towers of Sydney decisions about an employer of 2,900 workers, the emitter of 57 million tonnes of carbon dioxide each year and countless other air- and water-borne pollutants and the supplier of the key source of energy within our economy.

This is the time for Labor governments everywhere to listen to the Your Rights at Work voters. This is the time, like never before, when the challenges of the industry need a focus on the future and on the common good. This is the time like never before when this State needs to maintain the ability to change direction on

burning coal, on shaping demand and on protecting consumers from rising prices. And this is the time like never before when New South Wales needs an electricity industry that is publicly owned.

INTERNATIONAL DAY OF PEOPLE WITH A DISABILITY

The Hon. MICHAEL VEITCH [11.38 p.m.]: I advise the House of the formation of a disability advocacy group in Young called Shine. This is a group of local parents striving to raise awareness, encourage inclusiveness and celebrate the ability of people with a disability. It was with a great deal of pride that I formally launched the group Shine on Sunday 2 December. This launch was a part of the International Day of People with a Disability celebrations conducted in Young.

The theme of this year's International Day of People with a Disability is "Decent work for persons with disabilities". It aims to encourage governments, business groups and people with a disability to discuss and develop ways that allow people to participate fully in the workforce. This is the twenty-sixth year we celebrate the International Day of People with a Disability. It is a United Nations sanctioned day to celebrate the achievements, contribution and experiences of people with a disability.

The day aims to bring together people with a disability, non-government organisations, businesses, all levels of government, advocates, family members and the wider community in a combined celebration. The day has its beginnings back in 1981, the International Year of Disabled Persons. From 1983 to 1992 the world celebrated the United Nations Decade of Disabled Persons. In 1992 the United Nations Assembly proclaimed 3 December as the International Day of Disabled Persons. The rationale for this year's theme "Decent work for persons with disabilities" is underpinned by irrefutable evidence and statistics.

Worldwide more than 80 per cent of persons with a disability are unemployed. In fact, most will never access the labour market. Almost everywhere there is a significant gap between the working conditions and employment trends of persons with a disability and those without a disability. Around the world survival for persons with a disability is totally dependent upon begging, handouts and welfare; disgracefully, it is not through meaningful or gainful employment. The recently adopted United Nations Convention on the Rights of Persons with Disabilities recognises the rights of a person with a disability to work and employment on an equal basis with others.

The United Nations has developed a handbook for parliamentarians around the world entitled "From Exclusion to Equality—Realising the Rights of Persons with a Disability." It paints a very sad and, at times, ugly picture of the world's treatment of persons with a disability. Over 650 million people around the world are living with a disability. If we add their extended families to the number, over two billion people are living daily with issues affecting people with a disability—a staggering figure. Internationally, people with a disability have little hope of going to school, getting a job, having their own home, creating and raising their own family, enjoying a social life, or even exercising the basic right to cast a vote to select their elected representatives.

In short, persons with a disability comprise the world's largest and most disadvantaged minority. The international figures are damning: 20 per cent of the world's poorest people are those with a disability; 98 per cent of children with a disability in developing countries do not attend school; 30 per cent of the world's street children have a disability; in some countries the literacy rate for adults with a disability is as low as 3 per cent; and in some countries the literacy rate for women with a disability is 1 per cent. From these figures it is not hard to see how, internationally, having a disability results in poverty, discrimination and marginalisation. The United Nations determined that a convention was required because people with a disability are still viewed as objects of welfare or medical treatment rather than holders of rights.

The decision to add a universal human rights instrument specific to persons with a disability was borne of the fact that, despite being theoretically entitled to human rights, people with a disability are still being denied the basic rights and fundamental freedoms that most able-bodied people take for granted. The convention aims to provide people with a disability with the same access and rights to enable them to lead their lives as full citizens of their community, to be able to make valuable contributions to society, and to be able to access the same opportunities as others in their communities. In more developed countries such as the United States of America, Great Britain and Australia, people with a disability still experience high rates of unemployment and significantly high rates of underemployment.

In my opinion, in Australia it is essential that employers, all levels of government and the business community continue to work together to eliminate the existing gap between people with a disability and those

without a disability. People with a disability have a much greater and more valuable role to play in our society than we currently provide. This must be the source of our commitment to enhance those opportunities. I commend MaryLou Bonsembiante, Jane Parkman, Edna Kier and Barb Johnson for their initiative and commitment in further developing the informal support mechanisms that they have had in place for some time in Young. The evolutionary process that led to the creation of Shine is appropriate and the aims and objectives of advocating for a child or relative with a disability is a value that no-one in this Chamber would dispute.

PORT MACQUARIE-HASTINGS COUNCIL

The Hon. MELINDA PAVEY [11.43 p.m.]: Tonight I refer to an issue of importance to people who live in the Port Macquarie Hastings Council area: the potential trashing of the democratic voice of the local people. Local people have the potential to lose their voice. The sword of Damocles is hanging over the heads of the people of Port Macquarie while a section 740 glasshouse inquiry is being conducted. This underhanded and backdoor trashing is being orchestrated by Robert Oakeshott, who has the overwhelming support of the people of Port Macquarie, but unfortunately he acted in the most covert and underhanded way to realise his ultimate goal—a goal outlined by him at a meeting of the Residents Action Group on 28 February 2007 when he said what regrets he had as a politician. He said:

My main regret is a failure to use momentum from the last State election to influence the outcome of the council election. Putting more emphasis on community issues rather than party politics. I should have put more effort into promoting Independent candidates with the right intentions.

Robert Oakeshott is now using his strong personal following and his Labor Party persuasion to rectify his regrets. Local people have observed that Robert Oakeshott supported Councillor Jamie Harrison, who ran unsuccessfully at the Federal election two Saturdays ago as an Independent. He received only 3,142 votes but all his campaign material was in the same format as Robert Oakeshott's material in the previous State election. It is now a matter of record that the documents the Government was forced to make available to the people of Port Macquarie showed that Robert Oakeshott was instrumental in the local government inquiry into Port Macquarie council.

However, I really want to discuss the conduct of the inquiry by Commissioner Frank Willan in the last couple of weeks, which is disturbing to say the least. This week I have been informed of four separate incidents that would concern the most even-handed and objective observer. John Tingle, a former member of this House and a Port Macquarie resident, made it clear to the commission many months ago that he wanted to appear before the inquiry. John Tingle, a senior member of the community, a respected voice in the community, and a former member of this House was bemused that he was not approached to offer his opinions on the glasshouse centre. However, at the last minute he received a call from Commissioner Willan asking him whether he wanted to appear.

Bemused, Mr Tingle asked why he was asked at the last minute. Mr Tingle informed me that Mr Willan blamed his staff for failing to organise the meeting. Mr Willan said that commission staff had left several messages for Mr Tingle, which Mr Tingle denies emphatically. Mr Willan inferred that the staff member responsible for organising witnesses was not up to the task and had left. There are many unanswered questions. I have received correspondence from John and Clare Meyers, who are concerned about Commissioner Willan's conduct of the inquiry. They wrote to Paul Lynch, the Minister for Local Government, and said, amongst other things:

On Tuesday 20 November, Mr Willan kept referring to his assistant as Mr Gordon and not Mr Broad. One mistake is acceptable but all day, NEVER. Mr Willan's favourite words throughout the Inquiry, used recklessly, is "Fascinated" ...

Last week, before we travelled to Balmain, we were at the Inquiry when Mr Willan responded to Council's formal complaint. The Response was obviously written by someone else who failed to understand the issue submitted by Council's legal advisers. Mr Whelan advised he was not bound by the rules of evidence.

The Meyers go on to state:

This is an insult to residents who were advised that we must submit evidence to the inquiry not argy-bargy.

Judith Trutwein, another respected member of the local community, an accountant and a lawyer who teaches at the local TAFE, is being denied the opportunity to present evidence to the inquiry. She has paid out \$735 in freedom of information requests to get to the truth of the inquiry, to distinguish the political mischief making from the truth. Coincidentally, in the *Port News* on Monday, Frank Willan is quoted as saying:

I think the people will find the next two weeks quite fascinating.

As I said earlier, the word "fascinating" is a popular word. However, of great concern in the Port Macquarie news article written by Lisa Tisdell is the statement that the section 740 report must be tabled in Parliament, which, given the Christmas break, is not expected until February at the earliest. Parliament will not resume until 26 February. I sought advice from the Clerk of the Parliaments and it appears that Lisa Tisdell has been sold a pup. In fact, the Local Government Act 1993 states that, if neither House of Parliament is sitting, section 14B of the Royal Commission Act 1923 applies, which states that the report can be tabled with the Clerk of the Parliaments. What is the motivation for the giving of such inaccurate advice to the *Port News*? Some cynics have said to me that Mr Willan might be enjoying the \$900 a day he is earning five days a week. It remains for the commission to answer these questions. [*Time expired.*]

SYDNEY (KINGSFORD SMITH) AIRPORT NOISE AND AIR POLLUTION

Ms SYLVIA HALE [11.48 p.m.]: The announcement by Sydney Airport that it will close the east-west runway for up to a year will impose extreme levels of noise and air pollution on hundreds of thousands of Sydney residents who live under the north-south parallel runways. This, of course, is of no concern to the private-monopoly operators of the airport, whose only interest is maximising profit. The election of a Federal Labor Government after 11 years of the Howard regime should provide a fresh opportunity for a solution to be found to the unacceptable levels of pollution imposed on those hundreds of thousands of residents and the long-term health impacts that they and their children will suffer.

With Anthony Albanese, the Labor member for the inner west Sydney seat of Grayndler, appointed as the new Minister for Infrastructure, the Labor Party will have no excuse if it fails to act to alleviate the suffering of all those people sitting in safe Labor seats under the parallel north-south runways. It was, after all, the Labor Party that foisted all of that pollution onto them in a calculated political strategy to deliver for the big end of town while saving marginal seats to the east and west of the airport. It was the Labor Party that decided to build the third runway at Kingsford-Smith airport—a decision that has been described as Australia's worst single planning decision. It was the Labor Party that decided to repay the voters in Mr Albanese's safe Labor seat of Grayndler by exposing them to tens of thousands of low-flying jets over their homes every day of the year.

This original disastrous decision of the Labor Party has been exacerbated by the Liberal Party's equally cynical long-term operating plan designed with the sole objective of minimising take-offs and landings over Liberal-held electorates, particularly that of the former Prime Minister's now former seat of Bennelong. Last week's Federal election provides the best opportunity for this situation to be finally addressed. Now Mr Albanese has a chance to do something to help the residents of his seat and other seats under the flight paths. After more than a decade of claiming that there was nothing he could do as the airport was expanded and then privatised, he no longer has that excuse. Will he now take some real action to alleviate the suffering of these residents?

Just to remind him of the impacts of the Labor Party's decision to build the third runway, I will outline the effect that it has had on the lives of people living under those flight paths. Most people under the flight paths are woken each morning by the screaming jet engines of a fully-laden 747 on its final approach, a couple of hundred metres over their homes. This is often well in advance of the 6.00 a.m. curfew. As they prise their eyes open they know that, even though it is still dark, there is no prospect of getting back to sleep because for the next two to three hours the noise of one jet will not have faded before the noise of the next builds. Children wake from broken sleep tired, irritable and in a poor state to go to school and learn to their potential. Throughout the day classes will be disturbed in local schools; those attempting to dine outdoors on Norton or King streets or Glebe Point Road will have their conversations interrupted every few minutes and their food polluted by the invisible but foul-smelling cloud of falling Avgas that permeates the Inner West, fouling the air we breathe, settling on our clothes and filling the lungs of our children. Having had their dinner conversations and attempts to watch television or listen to music repeatedly disrupted, they finally drag themselves to bed knowing that they will not get to sleep until the last massive jet takes off over their homes, often after the curfew time of 11.00 p.m. If they are lucky, they will not be woken again by a curfew-breaking air freighter buzzing over their house at 3 o'clock in the morning.

So this is what Mr Albanese's Labor Party and the Howard Liberal Government have delivered to the residents of the Inner West. Mr Albanese and the Labor Party now have their hands on the levers. The proposed closure of the east-west runway provides an immediate opportunity for decisive action to be taken to initiate a genuine long-term solution for Inner West residents. I sincerely hope he has the courage to act.

GREENS POLICIES

The Hon. GREG DONNELLY [11.52 p.m.]: For a political party that positioned itself to become the balance of power in the Senate in the Commonwealth Parliament, the Australian Greens went to great lengths to

keep most of their policies well and truly under the covers. Yes, it is true that the Greens have taken up high-profile campaigning on climate change, the Tasmanian pulp mill, protecting old growth forests and conservation issues in general. However, less well known are their policies on a number of important issues.

Very few voters are aware, for example, that the Greens are pursuing with some determination the introduction of euthanasia laws. In February this year Greens Senator Bob Brown introduced the Australian Territories Rights of the Terminally Ill Bill 2007 into the Senate. The bill was patterned on the Northern Territory euthanasia legislation that was overturned by the Federal Parliament in 1997. The tragedy of this type of proposed legislation is that while it may fulfil from a secular humanist point of view an individual's personal freedom to make so-called free choices about how they live and end their lives, as overseas evidence has consistently shown, particularly from the Netherlands, the old, the infirm, the weak and the vulnerable find that they are quietly "put down" and society becomes gently conditioned to accept that it was in the individual's best interest.

Nor are voters aware that the Greens are strong supporters of legalising the sale of X-rated videos, DVDs, computer games and publications across Australia. The last chance the Greens had to argue this issue was in the New South Wales Parliament when a private member's bill that would have legalised the sale of X-rated material in this State was defeated in June 2005. If successful, the proposed bill would have legalised the sale of a raft of X-rated material depicting women and men as one-dimensional, compliant sex objects.

How the Greens reconcile their libertarian impulses with the mounting social science evidence highlighting the negative impact of pornography, nobody quite understands. Despite the overwhelming evidence about the negative impact of pornography, and despite a women's policy that asserts that women have the right to equal respect, the Greens pursue wherever and whenever they can legislation that would significantly increase the availability of X-rated material in our society.

On the question of illegal drugs the Greens have in the past received some unfavourable publicity about their policy. Indeed their current policy goes so far as to explicitly say, "The Australian Greens do not support the legalisation of currently illegal drugs." Can we therefore conclude that they have reviewed their laissez faire position towards illegal drugs? Not quite. Reading on further the policy states:

The Australian Greens will introduce a system of sanctions for personal use of illicit drugs, when not associated with other crimes that include measures such as education, counselling and treatment commensurate with specific cases and circumstances.

The words mean what they say. The Australian Greens support the decriminalisation of illicit drugs if they are for personal use.

On the question of education, and in particular private education, the Greens' attack on the rights of parents to educate their children in schools of their choice is, if nothing else, consistent. Whilst not proposing to reduce Federal funding for private schools at the moment, the Greens leave the door open to do just that after 2008. The Greens policy on Federal funding for private schools specifically reviews that support at the end of the 2005-08 funding quadrennium. Beyond the financial impact of the Greens education policy on Australian parents who choose private schools for their children are the implications for teaching traditional values in such schools and the question of religious freedom. Faith-based schools enjoy at both State and Federal levels exemptions under respective antidiscrimination legislation that provides such schools with the right to employ teachers who hold certain moral and religious values. Most parents who send their children to private schools do so because they know such faith-based schools provide students with, amongst other things, specific teachings on moral and religious values. The specific antidiscrimination exemptions continue to serve faith-based schools well and enable them to perpetuate their particular education and religious mission. The Greens, however, argue that such exemptions are loopholes and must be removed from all legislation. As recently as June 2006 the Greens unsuccessfully sought to have such exemptions removed from New South Wales antidiscrimination legislation.

Let me not be misunderstood. The reality may be that the Australian public would be comfortable with, and supportive of, the suite of Greens policy prescriptions. In the end people are free to make their own judgements. However, the point is that Bob Brown, Kerry Nettle, a range of would-be Greens Senators and members of the House of Representatives, along with their State Parliament counterparts, and activists sought to quite deliberately fly under the radar with respect to a whole range of policies that they know the voting public either have great concerns with or reject outright. The Greens are, of course, entitled in our democratic system to do this if they believe, as they do, that this is the best political strategy for them to pursue. However, what they cannot and will not be allowed to get away with is asserting that they are a bona fide third force in Australian

politics that, in reality, ruthlessly uses the political capital accrued using the public's concern for environmental and climate change issues to pursue a radical social policy agenda that they go out of their way to conceal. [*Time expired.*]

SHOALHAVEN ECONOMIC DEVELOPMENT

The Hon. DON HARWIN [11.57 p.m.]: Last week the Shoalhaven was rocked again by the news of another significant manufacturer announcing that it would be leaving Nowra. That news follows similar disappointing announcements over the past few months by Gates Rubber and, of course, Dairy Farmers. Unemployment is now a very significant issue in the Shoalhaven. I think it is the case that unemployment in the Shoalhaven is the highest of any region in New South Wales.

One of the principal impediments to economic development in the Shoalhaven is the Princes Highway. Business owners frequently mention freight costs as a reason for considering leaving Nowra. I note the Minister announced his options for the route upgrade between Gerringong and Berry last week. That is welcomed; the document put out by him is certainly a good one. It is broadly in line with the timetable that has been previously announced. But I implore the Government, given the problems associated with unemployment in Nowra, to speed up the timetable and deliver an upgrade much faster than it has said it will, and put some funding on the table to commence the upgrade before its term expires.

[*Time for debate expired.*]

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

Motion agreed to.

The House adjourned at 11.59 p.m. until Tuesday 26 February 2008 at 2.30 p.m.
