LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY

Tuesday 11 October 2005

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JOINT SITTING TO ELECT A MEMBER OF THE LEGISLATIVE COUNCIL

The two Houses met in the Legislative Council Chamber at 4.02 p.m. to elect a member of the Legislative Council in the place of the Hon. Carmel Mary Tebbutt, resigned.

The Clerk of the Parliaments read the message from the Governor convening the joint sitting.

The PRESIDENT: I am now prepared to receive proposals with regard to an eligible person to fill the vacant seat in the Legislative Council caused by the resignation of the Hon. Carmel Mary Tebbutt.

Mr MORRIS IEMMA: I propose Penelope Gail Sharpe as an eligible person to fill the vacant seat of the Hon. Carmel Mary Tebbutt in the Legislative Council, for which purpose this joint sitting was convened. I propose that Penelope Gail Sharpe be elected as a member of the Legislative Council to fill the vacancy in the Legislative Council caused by the resignation of the Hon. Carmel Mary Tebbutt. I indicate to the joint sitting that if Penelope Gail Sharpe were a member of the Legislative Council, she would not be disqualified from sitting or voting as such a member, and that she is a member of the same party, the Australian Labor Party, as the Hon. Carmel Mary Tebbutt was publicly recognised by as an endorsed candidate of that party and who publicly represented herself to be such a candidate at the time of her election at the Eighth Periodic Council Election, which was held on 22 March 2003. I further indicate that the person being proposed would be willing to hold the vacant place if chosen.

The Hon. JOHN DELLA BOSCA: It is with great pleasure that I second the nomination.

The PRESIDENT: Does any other member desire to propose any other eligible person to fill the vacancy? As only one eligible person has been proposed and seconded, I hereby declare that Penelope Gail Sharpe is elected as a member of the Legislative Council to fill the seat vacated by the Hon. Carmel Mary Tebbutt. I declare the joint sitting closed.

The joint sitting closed at 4.05 p.m.

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LEGISLATIVE COUNCIL

Tuesday 11 October 2005

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The President (The Hon. Dr Meredith Burgmann) took the chair at 2.30 p.m.

The President offered the Prayers.

ASSENT TO BILLS

Assent to the following bills reported:

Duties Amendment (Abolition of Vendor Duty) Bill
Sporting Venues (Offenders Banning Orders) Bill

ADMINISTRATION OF THE GOVERNMENT

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

J. J. Spigelman
LIEUTENANT-GOVERNOR

The Honourable James Jacob Spigelman, Chief Justice of New South Wales, Lieutenant-Governor of the State of New South Wales, has the honour to inform the Legislative Council that, consequent on the Governor of New South Wales, Professor Marie Bashir, Office of the Governor being absent from the State, he has this day assumed the administration of the Government of the State.

Office of the Governor
Sydney, 2 October 2005

LEGISLATIVE COUNCIL VACANCY

Joint Sitting

The PRESIDENT: I report the receipt of the following message from His Excellency the Lieutenant-Governor:

J. J. Spigelman
LIEUTENANT-GOVERNOR

I, the Honourable JAMES JACOB SPIGELMAN AC, in pursuance of the power and authority vested in me as Lieutenant-Governor of the State of New South Wales, do hereby convene a joint sitting of the members of the Legislative Council and the Legislative Assembly for the purpose of the election of a person to fill the seat in the Legislative Council vacated by the Honourable Carmel Mary Tebbutt, and I do hereby announce and declare that such Members shall assemble for such purpose on Tuesday the eleventh day of October 2005 at 4.00 p.m. in the building known as the Legislative Council Chamber, situated in Macquarie Street in the City of Sydney; and the Members of the Legislative Council and the Members of the Legislative Assembly are hereby required to give their attendance at the said time and place accordingly.

In order that the Members of both Houses of Parliament may be duly informed of the convening of the joint sitting I have this day addressed a like message to the Speaker of the Legislative Assembly.

Office of the Governor
Sydney, 5 October 2005.

BALI TERRORIST ATTACKS AND EARTHQUAKE IN PAKISTANI, INDIA AND AFGHANISTAN

The PRESIDENT: I inform the House that on behalf of the members of Legislative Council and the people of New South Wales I have sent a message of condolence to the Consul-General of Indonesia expressing sympathy to the relatives and friends of the people of Indonesia who were killed or injured in the Bali bombings on Saturday 1 October 2005.

I inform the House further that on behalf of members of the Legislative Council and the people of New South Wales I have sent messages of condolence to the Consuls-General of Pakistan, India and Afghanistan expressing sympathy to the relatives and friends of the people of those countries who were killed or injured in the earthquake on Saturday 8 October 2005.

Members and officers of the House stood in their places.

REPRESENTATION OF MINISTERS IN THE LEGISLATIVE ASSEMBLY

The Hon. JOHN DELLA BOSCA: I inform the House that further to my statement on 13 September 2005 regarding representation of Government responsibilities in the Legislative Council, the Hon. John Hatzistergos, MLC, Minister for Health, will also represent the Hon. Carmel Tebbutt, MP, Minister for Education and Training.

PARLIAMENTARY SECRETARIES

The Hon. JOHN DELLA BOSCA: I inform the House that with effect from 13 September 2005 the following members were appointed as Parliamentary Secretaries to the offices indicated:

Mr Paul McLeay, MP
Parliamentary Secretary to the Minister for Health

Mr Bryce Gaudry, MP
Parliamentary Secretary to the Minister for Planning

I inform the House further that with effect from 23 September 2005 the following member was appointed Parliamentary Secretary to the office indicated:

Mr Matthew Brown, MP
Parliamentary Secretary to the Minister for Roads and to the Minister for Transport

REGISTER OF DISCLOSURES

The President tabled, pursuant to clause 21 of the Constitution (Disclosure by Members) Regulation 1983, a copy of the Register of Disclosures by Members of the Legislative Council for the period 1 July 2004 to 30 June 2005.

Ordered to be printed.

POLICE INTEGRITY COMMISSION

Report

The President announced the receipt, pursuant to the Police Integrity Commission Act 1996, of a report entitled "Operation Abelia—Research and Investigations into Illegal Drug Use by some NSW Police Officers—Volumes 1 to 4", dated September 2005.

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

NSW OMBUDSMAN

Report

The President tabled, pursuant to the Ombudsman Act 1974, a special report entitled "Improving the Quality of Land Valuations Issued by the Valuer General", dated October 2005.

Ordered to be printed.

CLERK ASSISTANT COMMITTEES

The PRESIDENT: I inform the House that I have approved the secondment of the Clerk Assistant Committees, Mr Warren Cahill, to a United Nations development program project working with the National Parliament of the Solomon Islands for a period of six months commencing 10 October 2005. I inform the House further that Mr Robert Stefanic has been appointed as Acting Clerk Assistant Committees during Mr Cahill's absence.

PRIVILEGES COMMITTEE

Report: Person Referred to in the Legislative Council (Ms S. Wong)

Motion by the Hon. Peter Primrose agreed to:

That the House adopt report No. 30 of the Privileges Committee, entitled "Report on Person Referred to in the Legislative Council (Ms S Wong)", dated September 2005.

Pursuant to standing orders the response of Ms S. Wong was incorporated.

Reply to comments by the Hon David Clarke MLC in the Legislative Council on 9 December 2004

I am writing in reply to comments made by David Clarke in an adjournment speech in the Legislative Council on 9th December 2004.

I believe that my reputation has been damaged by David Clarke's incorrect statement of events in the Legislative Council.

On Friday 3rd December I was driving with my friend in the car along Hospital Road. We were stationary in traffic, due to a truck blocking the road. To our left there was a car park with a few cars waiting at a boom gate. As the boom gate opened for one particular car he shot out of the car park and attempted to enter the queue of traffic by forcing himself between my car and the car in front. As the traffic was at a complete standstill we were unable to accommodate this manoeuvre and his car appeared to be dangerously close to my car. This move surprised my friend and I as we did not see how the other driver intended to make any progress in the small space between my car and the car in front. After witnessing this I shook my head and made a comment to my friend and said "How rude!".

Upon seeing this the driver of the offending car wound down his window and began to shout "What did you say? Surprised at his reaction, we chose to ignore it. We kept our windows wound up, then proceeded with ordinary conversation between ourselves.

This action appeared only to aggravate the other driver as he then opened the door of his car and angrily strode to my window. Fearful for our safety, I told my friend to lock her door as I did the same. The driver then banged on my window, and I wound it down slightly, but was worried to wind it down any further. He asked me "What did you say just then?" I truthfully replied "I told my friend that I thought you were being rude". This made him very angry and he shouted "Well I think you're rude—and I'm reporting you to the police!" Surprised, I asked "Why are you reporting me to the police?" and he replied "Because you were the one that was rude and didn't let me in." Realising he was getting into a rage, I quickly wound up my window again while he continued to yell.

As he walked away, he yelled "We do things differently in Australia".

It is upsetting that someone who should know better would publicly set such an example of road rage and racial abuse, and believe that such behaviour and sentiments are acceptable. Furthermore, it is upsetting to read Mr Clarke's very different and obscured version of events.

Both my friend and I are first and second generation Australians. While Mr Clarke may find it appropriate to make a point of distinguishing my friend as "Anglo", we not only find it irrelevant, but also offensive that he discerns people by their appearance. It is of great concern that Mr Clarke calls us "precious" for finding his behaviour offensive.

TABLING OF PAPERS NOT ORDERED TO BE PRINTED

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

The following papers were ordered to be printed:

(1) Independent Commission Against Corruption Act 1988—Report of the Independent Commission Against Corruption entitled "Report on Investigation into the University of Newcastle's Handling of Plagiarism Allegations", dated June 2005.

(2) Independent Commission Against Corruption Act 1988—Report of the Independent Commission Against Corruption entitled "Report on Investigation into Planning Decisions Relating to the Orange Grove Centre", dated August 2005.

(3) Report entitled "Implementation of the NSW Government's Response to the Final Report of the Special Commission of Inquiry into the Waterfall Accident Reporting period April–June 2005", dated 4 August 2005.

BUDGET DOCUMENTS

Production of Documents: Return to Order

The Clerk tabled, pursuant to the resolution of 14 September 2005, documents relating to a further order for budget documents, received on 28 September 2005 from the Director General of the Premier's Department, together with an indexed list of the documents.

M4 AND M5 CASH BACK PROGRAM ABOLITION

Production of Documents: Return to Order

The Clerk tabled, pursuant to the resolution of 15 September 2005, documents relating to the M4-M5 cash back scheme, received on 29 September 2005 from the Director General of the Premier's Department, together with an indexed list of the documents.

Production of Documents: Claim of Privilege

The Clerk tabled a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. The Clerk advised that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

INTERSTATE PAROLEES

Production of Documents: Return to Order

The Clerk tabled, pursuant to the resolution of 15 September 2005, documents relating to interstate parolees, received on 29 September 2005 from the Director General of the Premier's Department, together with an indexed list of the documents.

TRANSFER OF PAROLEES

Production of Documents: Return to Order

The Clerk tabled, pursuant to the resolution of 15 September 2005, documents relating to the transfer of parolees received on 29 September 2005 from the Director General of the Premier's Department, together with an indexed list of the documents.

PHOTO CARD

Production of Documents: Return to Order

The Clerk tabled, pursuant to the resolution of 21 September 2005, documents relating to a further order regarding the proposal to introduce a photographic card, received on 4 October 2005 from the Director General of the Premier's Department, together with an indexed list of the documents.

OTTO DARCY-SEARLE PAROLE TRANSFER

Production of Documents: Return to Address

The Clerk tabled, pursuant to the resolution of 15 September 2005, correspondence from the Official Secretary to Her Excellency the Governor regarding an Address to the Governor for papers relating to Otto Darcy-Searle, received on 6 October 2005. The Clerk informed the House that the matter was considered by the Executive Council on 21 September 2005 and, on the advice of the Executive Council, the Governor refused the request on grounds outlined in the correspondence.

LEGISLATION REVIEW COMMITTEE

Report: Legislation Review Digest No. 11 of 2005

The Clerk announced the receipt, pursuant to the Act, of the report entitled "Legislation Review Digest No. 11 of 2005", dated 10 October 2005.

The Clerk announced further that, pursuant to the Act, it had been authorised that the report be printed.

The Hon. DON HARWIN [2.42 p.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Don Harwin.

PETITIONS

Same-sex Marriage Legislation

Petition opposing same-sex marriage legislation, received from **Reverend the Hon. Fred Nile**.

Breast Screening Funding

Petition requesting funding to ensure access to breast screening services for women aged 40 to 79 years and to reverse falling participation rates, received from **the Hon. Robyn Parker**.

Public Housing

Petition requesting action to protect public housing tenants and to ensure that public housing remains viable for low-income households, received from **Ms Sylvia Hale**.

Unborn Child Protection

Petitions requesting legislation to protect foetuses of 20 weeks gestation and to make resources available for post-abortion follow-up, received from **the Hon. Patricia Forsythe** and **Reverend the Hon. Fred Nile**.

Anti-Discrimination (Religious Tolerance) Legislation

Petition opposing the proposed anti-discrimination (religious tolerance) legislation and the introduction of heavy penalties that will prevent religious groups from speaking frankly and openly for fear of allegations of vilification, received from **Reverend the Hon. Fred Nile**.

TABLING OF PAPERS

The Hon. Eric Roozendaal tabled the following papers:

(1) Annual Reports (Statutory Bodies) Act 1984—Report of the New South Wales Treasury Corporation for the year ended 30 June 2005.

(2) Crimes (Administration of Sentences) Act 1999—Report of the Parole Board for the year ended 31 December 2004.

Ordered to be printed.

BUSINESS OF THE HOUSE

Postponement of Business

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

GENERAL PURPOSE STANDING COMMITTEE NO. 1

Deputy Chair

The President informed the House that following changes to the membership of General Purpose Standing Committee No. 1 the Hon. Robyn Parker was elected Deputy Chair of the Committee on 14 September 2005.

GENERAL PURPOSE STANDING COMMITTEE NO. 4

Reference

The Hon. JENNIFER GARDINER: I inform the House that in accordance with the resolution of the House relating to the establishment of committees, on 21 September 2005 General Purpose Standing Committee No. 4 resolved to adopt the following terms of reference:

1. That the General Purpose Standing Committee No. 4 inquire into and report on:

   (a) the proposed upgrade of the Pacific Highway between Coffs Harbour and Woolgoolga as outlined in the Coffs Harbour Highway Planning Strategy, and

(b) the progress of the proposed Bonville upgrade of the Pacific Highway.

2. That the inquiry be in the same terms as, and conducted concurrently with, the inquiry into the Pacific Highway upgrades between Ewingsdale and Tintenbar, and Ballina and Woodburn, as reported to the House on 14 September 2005.

DEFERRED ANSWERS

The PRESIDENT: I inform the House that due to an administrative error an answer from the Minister for Police received on 26 July 2005 to a question without notice was not included in *Hansard* for 13 September 2005. The answer will also be published in today's *Hansard*.

BUSINESS OF THE HOUSE

Order of Business

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

That questions commence at 4.30 p.m. this day.

CROSS-CITY TUNNEL

Adjournment (Standing Order 201)

The PRESIDENT: I have received from the Hon. Melinda Pavey a notice under Standing Order 201 to move the adjournment of the House to discuss the following matter of urgency:

Current problems associated with the cross-city tunnel.

The Hon. MELINDA PAVEY [2.57 p.m.]: This matter, which relates to the disastrous cross-city tunnel, which the Australian Labor Party has foisted on the people of Sydney and New South Wales, is urgent. In the words of the Minister for Roads, Joe Tripodi, with regard to this tunnel "too many compromises were made". Too many compromises were indeed made, and they are destroying the quality of life and the lifestyles of tens of thousands of people in the inner suburbs of Sydney. This motion is particularly urgent today because of revelations that the Australian Labor Party in New South Wales was complicit in a deal for a $105 million cash grab. That was a nice little earner.

The Hon. Duncan Gay: Old-fashioned Labor!

The Hon. MELINDA PAVEY: It is old-fashioned Labor style. Labor realised that it was dudded on the Eastern Distributor with Macquarie Bank. And where has the former Premier gone? He has gone to Macquarie Bank. The Labor Party realised that with the Eastern Distributor it signed a deal that was not in the interests of taxpayers, so it has gone to the other extreme in this case and has $105 million in the bank to prop up the diabolical New South Wales budget. This tunnel is destroying the amenity and quality of life of many people as it is destroying the efficiency of motor vehicle movement through Sydney. Since the cross-city tunnel opened there has been chaos. Week after week people have said that tunnel usage would increase from the present 20,000 cars a day. The Labor Party has tried to ignore the fact that only one-fifth of the vehicles projected to use the tunnel are using it. Minister Tripodi has conceded that the tunnel is a public transport disaster and it is affecting the quality of life of many people, it is forcing businesses to close, and it is costing motorists substantially as well as adding to their travel time. It is an unmitigated disaster. "Too many comprises were made", but just who has made the compromises?

The Hon. Duncan Gay: Carl.

The Hon. John Della Bosca: Carl who?

The Hon. MELINDA PAVEY: Carl Scully made the compromises when he was Minister for Roads. As a member of Cabinet he was complicit in that decision—as was Morris Iemma.

The Hon. Rick Colless: Morris Mirror: I'll look into that!

The Hon. MELINDA PAVEY: Yes, Morris Mirror, or Morris Mini-Minor.

The Hon. Rick Colless: And Joe Tripodi.

The Hon. MELINDA PAVEY: He was not at the Cabinet table then, but he knows now that too many compromises were made by the Labor Party around that Cabinet table.

The Hon. Dr Arthur Chesterfield-Evans: Again!

The Hon. MELINDA PAVEY: Yes, again, as the Hon. Dr Arthur Chesterfield-Evans so rightly interjected. This matter is urgent because it must be discussed publicly to get answers from the Government that signed up to this deal. The Labor Party Government of New South Wales has to answer some of the very real questions that the people of Sydney and New South Wales and are demanding must be answered.

A very cross city is against this silly cross-city tunnel. The cross-city tunnel is making people cross. There is a serious point to this issue. There is a village-like atmosphere in Potts Point, Darlinghurst and Elizabeth Bay—areas that the Leader of the House and the Hon. Eric Roozendaal would appreciate have had a population explosion because of development in the area. Developers have been contributing quite helpfully to the Labor Party. A lot of people have moved into those areas because of that village-like atmosphere and because of their ability to go to cafes, restaurants and shops as a result of rejuvenation. That atmosphere has been destroyed by rat-running cars trying to avoid the cross-city tunnel as it does not take them where they need to go. If people want to go to the middle of the city, the cross-city tunnel is not the route to take.

The Hon. Duncan Gay: The tunnel funnel. They have closed William Street.

The Hon. MELINDA PAVEY: The Government closed lanes in William Street and it intends to close another lane in Oxford Street. Everyone has been asking: Why would the Government do this? Everything has now been revealed. A $105 million commission payment was made to the Labor Party of New South Wales, the New South Wales Government, which is why we have this disaster. Joe Tripodi, the Minister for Roads, is in way above his head on this issue. He was not there when the contracts were signed.

Mr Ian Cohen: He is being honest.

The Hon. MELINDA PAVEY: At least he is being honest. He said that compromises were made. In being honest he also condemned everyone who sat around the Cabinet table when that decision was made. The Hon. John Della Bosca, the Hon. Tony Kelly, the Hon. Michael Costa and the Hon. Carl Scully are just some of the people who sat around the Cabinet table. Carl Scully was given the order to get as much money out of this as he could from the people of New South Wales to fix up the budget black holes we are experiencing. Motorists are being forced to pay an additional 50¢ to subsidise this State Government's cash grab.

How does that cash grab compare to what was signed over in relation to the Eastern Distributor? The Government claims that the cross-city tunnel cost 10 times as much for administrative work and road closures. So it will cost the Government $105 million to close roads and to funnel people into the cross-city tunnel, yet it cost only $10 million for the same work and the same principles involved in the Eastern Distributor. The Government realised it had been dudded on this deal, in a sense, by Macquarie Bank. Macquarie Bank got the best deal it could for its investors and the State Government was embarrassed about the amount of money being raised by the Eastern Distributor. The Government, in an attempt to make up for lost ground, thought it had all this money available to it and thought it would get its share of it, which has resulted in chaos.

This motion is urgent because people who want to travel into Sydney have to wait unacceptably long times as a result of the closure by this Government of lanes in William Street and Oxford Street. That is causing absolute chaos. If the Hon. Henry Tsang were a commuter like everyone else in this State he would understand that we are in a crisis. This morning small business people said on radio that they had had to close their doors because of a 50 per cent loss in total revenue. As a small business person I am sure the Hon. Henry Tsang would appreciate that businesses are having to lay off people and close their doors, resulting in a loss of services to inner city suburbs. This motion is urgent because we need solutions to these problems. We want to discuss the crisis that has enveloped Sydney—a crisis caused by the State Labor Government because of the contract that it signed. I ask all honourable members to support this urgent motion and to enable debate on the crisis that has enveloped Sydney. This motion must be debated so we can shed some light on this knuckleheaded deal agreed to by this knuckleheaded State Labor Government.

Urgency agreed to.

The Hon. MELINDA PAVEY [3.08 p.m.]: I move:

That this House do now adjourn to discuss the following matter of urgency:

Current problems associated with the cross-city tunnel.

Motorists are being slugged an extra 50¢ for every trip they make through the cross-city tunnel—a toll of $3.56 for those who have the proper pass. So 50¢ of that $3.56 toll is the estimated contribution by toll users to the State Labor Government to cover the cost of its $105 million deal. The Roads and Traffic Authority [RTA] specified a fee of $96,858,688, plus GST of $8,141,312, in return for the RTA granting the right to undertake the project. Let us get this issue in perspective. In relation to the Eastern Distributor the fee demanded by the State Government from the Airport Motorway Consortium, which built the Eastern Distributor, was $10.2 million. After a few years the Government realised it had not got the best deal it could on behalf of the people of New South Wales, so it decided to get the money out of the next toll road operator, which is what it has done. However, the Government charged 10 times that amount.

The Hon. Duncan Gay: Which the people have to pay for.

The Hon. MELINDA PAVEY: Toll users are paying those costs. The irony in that $96,858,688 service fee is that the RTA is receiving money to close down roads and lanes in William and Oxford streets.

[*Interruption*]

It is a real shame that the Leader of the House did not take more interest in this matter when it came before Cabinet. If he had he would have seen through this deal. He would have realised that it was not a good deal for the people of New South Wales. That is something that should be of paramount importance in the minds of any government members deciding on such an issue. This Government thought those rich people in the eastern suburbs and in the inner west would flock in and pay their toll and that it would get an extra 50¢ out of each journey, but it has not worked.

The Government is closing down lane after lane to funnel people into the tunnel and to maintain its contractual arrangements with the tunnel consortium. Ironically, the Government is being paid to close down other public roads, which is affecting the amenity of life of people in the inner city. A lot of people still find it quicker to avoid the toll by clogging up inner city roads, especially in the eastern suburbs, in order to get to work. The cross-city tunnel does not take them to the middle of Sydney; it takes them to the far west of the city and into Darling Harbour. It is not properly serving the needs of the people and they are not getting value for money, which is why they are not using it. Over the weekend we had the whole sorry saga of Joe Tripodi being forced to work his way through this crisis. Last Friday Minister Tripodi claimed that he would meet the tunnel operators on Sunday to discuss the issue. However, according to the operators, no such meeting took place. The Minister said that the company must reduce the tunnel toll. But the Government could cover the service cost of $96,858,688 that it has imposed on the operators with the money that it collects from every toll that is paid.

The Labor Party was happy to accept donations from many developers in Potts Point, Darlinghurst and Elizabeth Bay but the village atmosphere in those areas has been shattered because the Government is unable to manage a simple contract. The cross-city tunnel contract was not the first of its kind; many similar contracts had gone before it. But the Labor Government's economic mismanagement had put the New South Wales budget under enormous stress, it needed more money and it felt that it could raise it via the tunnel. The Government should have examined the finer details of proposals made by the other consortia that tendered for the job. Such an examination would have revealed that the winning tenderer projected much greater traffic movements. That should have rung alarm bells for the Government. The Roads and Traffic Authority, which relied on its traffic forecasts, got it wrong and the other consortia, which did their own modelling and traffic projections, got it right. They knew that the traffic numbers predicted by the RTA were unsustainable.

But the greedy and desperate Government took notice only of the figures that would give it the biggest cash return. That $96,858,688 cash return, which made the toll far too expensive, is the reason that the cross-city tunnel is not working. People will get in their cars and use the cross-city tunnel if they believe they are getting value for money. But the motorists of Sydney and regional New South Wales have realised that the tunnel is not good value and they are choosing not to use it. As Joe Tripodi said this week, too many compromises were made regarding the cross-city tunnel. Minister Scully was under pressure from the then Premier and the then Treasurer because of the budgetary crisis in New South Wales. The Labor Government cannot manage the New South Wales economy. It has no plans and no vision for this State. The motorists of Sydney and inner-city

residents face a crisis simply because this Government cannot manage or put a deal together. It cannot deliver value for the taxpayers' dollar. Thus the Government was forced to take the $105 million cash grab.

As I have said, the meeting that Minister Tripodi claimed was scheduled for the weekend did not happen. There has been a breakdown in communication and in commitment. I imagine that the tunnel operators are as unhappy as motorists are with the State Labor Government. The Premier—Mirror Iemma—says, "Let's look into it". The cross-city tunnel is one of his first big tests as Premier. But he was sitting around the Cabinet table when the original decision was made. We do not want to hear him offer the traditional Labor excuse, "I wasn't Minister at the time; it isn't my fault." The biggest players at the Cabinet table are now leading this State and they must be held accountable for their actions. The people of New South Wales are cross. They will not forget that the cross-city tunnel decision was taken by those who sat around the Cabinet table and who are now leading this State.

There will be more road closures. If future traffic levels are higher than expected further traffic calming measures will be introduced—involving funnelling more traffic into the cross-city tunnel—for five kilometres around the tunnel. That will have an enormous impact not only on inner-city residents but also on those who wish to travel efficiently partway across Sydney or to the city's east. They will have to endure delays and to pay more money. Labor has sold out motorists in its cosy deal with the operators of the cross-city tunnel. The Minister for Roads is the poor little lackey: he thought he was getting a good job but it is a poison chalice. His portfolio is in crisis and the people of New South Wales are voting with their feet. They know that the tunnel does not represent good value for money so they are avoiding it.

Minister Tripodi's inability to answer questions and to respond to motorists' concerns makes him unsuitable for the job. He is under enormous pressure and he is not meeting the demands of his office. The arrangements that this Labor Government signed off on have caused a crisis. It will stand condemned unless a solution is arrived at. Calm must be restored to Sydney's traffic situation. Frank Sartor—I have not mentioned him yet—was also quite excited about the tunnel deal when he was Lord Mayor of Sydney. He was the great idealist: he wanted to divert vehicles into a tunnel and out of the central business district. I think he was then the Independent mayor of Sydney—ha, ha—but he was supported by his Labor mates. Although Frank Sartor did not then sit around the Cabinet table, he is complicit in the Government's decision.

Many of those who are now in charge of this State should be ashamed of their roles in the cross-city tunnel decision. The people of New South Wales will judge the Labor Party on its mismanagement of the entire process. The Government negotiated a deal that favoured the tunnel operators, not motorists—and the people of New South Wales will not forget that. I remind honourable members that Joe Tripodi said that too many compromises were made, and those compromises amounted to a greedy cash grab that is affecting the lives of tens of thousands of people. The State Government has grabbed more than $96 million and closed roads in our city. It stands condemned for its actions.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [3.18 p.m.]: I support the motion. It is outrageous that this Government conducts deals with the private sector, gives away its assets, gets ripped off, and then monstrously inconveniences the public. As Alan Bond said, "You're not in business until you're doing business with government." He meant that one can rip off governments and make a fortune. He is the man who went broke, paid ¼¢ in the $1 and said, "It is a very fair settlement." This Government's dealings with the private sector are an endless history of giving away to its mates, being ripped off or both. For example, the Auditor-General commented that the Port Macquarie Base Hospital was paid for twice and given away once.

Under the somewhat suspect financial systems of Macquarie Bank, the Government wrecked rail in the north-west sector. When Carl Scully told me why he had selected the route through the Mount Ku-ring-gai campus of the University of Technology, Sydney, he became dewy eyed and told me that he wanted students to be able to walk out of their classes and onto a railway station. Of course, he later abandoned the plan for that railway station. Why? I think it was because of the M2 contract but, of course, that is commercial in confidence. Who will pay in the medium term for the overpriced airport tunnel, from which water has to be pumped out all the time because of leaks? The M5 East is far too small and the stacks, at vast cost to run, were re-positioned into the bottom of a valley. However, they do not work, which is stupid. The Roads and Traffic Authority [RTA] refuses to measure exposure levels in relation to the health effects of the tunnel. This is another example of the Government mismanaging a contract.

The Eastern Distributor caused immense harm to the development of public transport. The wharves at Walsh Bay were given away. The Murrumbateman council caravan park was given away for a peppercorn

amount, without tender, to a hugely profitable private sector enterprise using a government resource. The same thing happened in relation to the lease at Sawpit Creek Caravan Park in Kosciuszko National Park, which was offered for more than $1 million. How much was that park given away for to the Murrumbateman owners? Once again, the private sector has taken all and the Government has been ripped off. The situation in regard to the quarantine station is dithering along—will the Minister sign or not? Once again, the Government refuses to manage a major asset in our interests.

I refer to the cross-city tunnel. I have said in the past that it would have been cheaper to run a tram from the city to the University of New South Wales than to build the tunnel. Such a tram would take a load off the city—as much load as the tunnel—because a large number of commuters travel from the densely developed Randwick area into the city. A lot of people who travel to the Prince of Wales Hospital and the University of New South Wales could have been funnelled onto the public transport system, which would have taken an immense number of cars off the road. Would the Government do something like that? Not on its nelly. It is too stupid to develop public transport, but it has gone ahead with the tunnel.

The Government has made a little deal to inhibit people from travelling on the city streets. Buses now travel in both directions on Druitt Street, creating a bottleneck. A bottleneck has been created on Oxford Street to force people to use the tunnel. Another bottleneck has been created as a result of three lanes being reduced to two lanes on the Western Distributor at the bottom of Bathurst Street. On it goes. The RTA created a bottleneck on Market Street by creating a bus parking zone. Only two lanes are now available. People experience that bottleneck every evening. I refer to some of the Government's wonderful future plans. At the emergency department of the Mater hospital, Newcastle, the Government is fiddling staff numbers downwards and it has thrown in a psychiatric hospital to minimise the size. It can then say it is delivering the same amount of service in the private sector as it was delivering before. However, the extra staff management put in the emergency department, which were supernumerary but excellent and required, are being taken away because the Government wants to maximise the profit of the private sector developer. Once again, the interests of the private sector developer are put ahead of the interests of the people of New South Wales because the Government is too stupid to borrow money to build the infrastructure we need.

The Government needs to plan for the future and adopt the old-fashioned concept of borrowing money and building infrastructure. It would not be declared bankrupt because it has an asset. The Government should not guarantee someone else's profit—the Macquarie Bank—and allow it to earn a squillion. The cross-city tunnel debacle is symptomatic of this Government's failure to ensure suitable growth in the Sydney metropolitan area. The Government has failed to provide a user-friendly, clean and reliable public transport system to compete against the convenience of private car use. It has failed to implement open, accountable and transparent government. The cross-city tunnel was touted as a means to improve traffic flow from the inner west to the eastern suburbs. However, it seems that the Government has negotiated a contract that has only made it worse. The Government has made the contract summary available on the Treasury web site. I think it was scared that Legislative Council members would move a motion demanding to see the contract.

I call on the Minister for Roads, Joe Tripodi, to publicly release the entire contract with the Cross City Motorway [CCM] consortium on the RTA web site. No Government member—including the Premier and the Minister for Roads—can wash his or her hands. The RTA bureaucrats negotiated the terms of the contract with the CCM consortium for the construction of the cross-city tunnel and the Minister responsible must be held accountable. The Government has changed Ministers to avoid accountability, which is totally at variance with the Westminster tradition. State and Federal Ministers no longer resign, as is evidenced by recent experiences where Ministers have made big shambles of an issue but have not taken responsibility for anything.

The Australian Democrats believe that the RTA is narrowing traffic lanes on William Street to funnel traffic into the cross-city tunnel to avoid paying compensation to the private operators of the tunnel due to lack of patronage. Some years ago I read a most frightening document in relation to the Macquarie Infrastructure Group that talked about money it was going to make by owning public infrastructure. It said it had motorways in Yorkshire, Germany and two bridges over the Lisbon harbour in Portugal. It said that one of the risks was that when the patronage figures were wrong governments would be late with their payments, as it had been a couple of times in Lisbon. When the group locks governments into figures that are responsible for its profit it has got them. Naïve governments give them deals. It happened in Lisbon, as was shown with the Macquarie Infrastructure Group. It has happened in New South Wales. Every time the Government says it will be different, but from the litany of incidents I have outlined we can see that it happens every time. As Alan Bond said, it is like taking candy from a baby.

In the past the State Government has had to pay out owners of the Eastern Distributor and the M2 because clauses in the contracts have specified that if a certain patronage level is not met the Government has to

pay compensation to the private toll operator. Those clauses are not usually publicly disclosed because they are commercial in confidence. In other words, the Government hides its incompetence. The entire cross-city tunnel contract cannot be obtained for public scrutiny. I call on the Minister for Roads to publicly release the entire contract with CCM on the RTA's web site. The Government must be transparent and called to account in regard to this debacle. Sydney's motorists have the right to know why and how they are being forced to use a tunnel that nobody wants. On 12 January I wrote to the Auditor General, Mr Bob Sendt, and stated:

> Dear Mr Sendt,
>
> Attached is a copy of a letter I recently received from Ms Clover Moore, the Member for Bligh. Ms Moore sponsored my Government (Open Market Competition) Bill in the Legislative Assembly and helped a great deal in referring the bill to the Public Accounts Committee.
>
> In an attempt to obtain contract summaries for the construction of the Cross City Tunnel, Ms Moore was informed by the Minister for Roads that contract summaries for the Cross City, Lane Cove tunnels and the Westlink M7 will not be publicly available until the "execution" of the construction contract for the Lane Cove Tunnel when the tunnel is being expected to be open to traffic in 2006!
>
> This is a clear example of how broad the discretion of government departments and their respective ministers are when applying the guidelines of the Premier's Memorandum No 2000-11 "Disclosure of Information on Government Contract with the Private Sector". This is not a satisfactory situation. Although the Premier's Memorandums are only intended to be guidelines for government agencies, I would appreciate your input in assessing agencies compliance with the above-mentioned Premier's Memorandum.
>
> Thank you …

I hope that Mr Sendt will do something about that. I refer also to the recent give away of the site at Flemington markets for $82 million. It is a far more valuable site. This issue will emerge and I will follow it up. The final insult is that today's front page of the *Australian Financial Review* states that the former Premier of New South Wales, Bob Carr, has taken a plum job at Macquarie Bank. How Mickey Mouse can one get when there is no legislation in New South Wales to stop people who have held powerful positions in government to move immediately to work with private sector lobbyists who take advantage of them? That is another failure of this Government. It is an absolute disgrace. It is about time the Government acted in the interests of the people of New South Wales, as opposed to the interests of various mates or people who con it.

Reverend the Hon. FRED NILE [3.28 p.m.]: The Christian Democratic Party supports the motion concerning the cross-city tunnel and the financial arrangements that have now been made public, in particular the amount of $105 million that was charged to the cross-city tunnel operator, which consisted of $96,858,000 plus GST. It is obvious that this has caused the tunnel operator to recoup the $105 million by increasing the toll to $3.56 for a relatively short trip. The drivers of New South Wales, particularly those in the city and metropolitan area, are being required to pay the $105 million. In other words, they are helping the tunnel operator recoup the $105 million it paid to the Government. The users are being forced to be involved in that repayment arrangement. It is obvious that $105 million is a very large amount, being 15 per cent of the total cost of the tunnel of $680 million. It is completely out of proportion.

With the Eastern Distributor the Government required an up-front payment of $10 million, but the amount paid in respect of the cross-city tunnel is 10 times more. Government spokesmen have argued that the $105 million was needed to cover the cost of changes to the water systems, roads, et cetera, as a result of the construction of the tunnel. If that is a fact, I call on the Government now to be honest, transparent and accountable by tabling in this House the costs that justify the amount of $105 million. It was claimed that amount recouped the costs the Government had to meet, and that it was a genuine figure. There is a lot of scepticism in the community, and I believe in this House also, as to whether that is the truth.

There is a second issue arising from the payment of the $105 million. Was the offer of $105 million a factor in the cross-city tunnel consortium winning the tender? Were the other tenderers aware of that large amount? They could have based their offer on the $10 million that was paid in relation to the Eastern Distributor. Why did the cross-city tunnel consortium offer this figure? Was it given information, hints or encouragement that if the Government was offered such a large amount the consortium would win the tender? This is a very serious matter.

I regularly drive down William Street, and it is like going through an obstacle course at the moment, with lanes closed and large excavations. It appears to be designed to create a funnel effect, forcing drivers to use the tunnel and thereby increase revenue for the tunnel operator. The operator claims it must receive toll income from about 90,000 vehicles—that was its calculation in working out the cost of the tunnel and the profit margin.

Experts have apparently stated that the tunnel ventilation system is calculated on 75,000 vehicles. Why the gap between 75,000 and 90,000? If 90,000 vehicles are to use the tunnel—and it seems unlikely that will ever happen, with only 20,000 to 21,000 vehicles using it at the moment—what are the plans in regard to the health of tunnel users and people in areas where the ventilation chimneys exist? It is a very serious health issue.

There is no doubt that William Street is a mess. The plan apparently is to widen footpaths, plant trees and restrict the traffic lanes to one each for cars and buses. As honourable members know, William Street is basically a business area, not a residential area, so why this upgrade? It has been suggested to me that the people who mainly use William Street at night are the street walkers, the prostitutes. Is William Street being upgraded to increase their amenities? I note also that the cross-city tunnel consortium has been able to secure a provision that if the Government tries to renegotiate the contract to reverse the traffic restrictions concerning the tollway, the tunnel operator will be able to seek compensation from the Government.

In other words, the operator has built into the contract a financial restriction on renegotiating the provisions of the contract. If the Government tries to reverse the restrictions it will be breaking the contract. The tunnel operator may have been smarter than the Government and anticipated a public outcry. It built a financial penalty into the contract so that if the Government can get the tunnel operator to agree to some changes it will be a cost to the Government. Again, that will be a cost to the taxpayers, who have been hit for $105 million and have to pay for that through an increased toll.

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, Assistant Treasurer, and Vice-President of the Executive Council) [3.36 p.m.]: I wish to respond to a number of assertions made by the Hon. Melinda Pavey, but first I would like to clear up a matter raised by Reverend the Hon. Fred Nile. I am anxious to make sure that the Opposition does not further turn this issue into a political football. Reverend the Hon. Fred Nile spoke about the $105 million, which the Deputy Leader of the Opposition and other members made much of by way of interjection, gesticulating and joking about old-fashioned Labor politics. I am not clear what they are talking about. I do not know what Robert Askin's party would know about old-fashioned politics, but any inference that the $105 million payment constitutes a form of consideration, a bribe or anything else the Opposition might suggest, is ludicrous, and they should know it. I am sure Reverend the Hon. Fred Nile asked the question in good faith. Let me explain that the $105 million figure that has been reported widely comprises the $97 million payment by the cross-city tunnel operator to the Roads and Traffic Authority [RTA]. It has been on the public record for some years. The figure of $105 million is an approximation of that initial amount plus GST.

For the purposes of the record, the first tranche of that money is $26 million, representing requirements on the RTA for public utility adjustments. The biggest component of this work was excavation and relocation of a number of very large underground power cables, and public utility adjustments including relocation of water pipes, gas pipes and the like. Property costs were more than $5 million. Some pieces of property were required, particularly where the tunnels connected with surface streets. RTA costs included acquisition and associated survey and valuation costs. Construction amounted to more than $21 million. While the private sector owners conducted the vast bulk of construction work associated with the tunnel, some work needed to be performed by the RTA. This included some localised and comparatively minor construction work outside the cross-city tunnel lease area. Last but not least, project development was approximately $23 million. A large amount of work is required to get the project to the stage where the private sector can take it on board. These works include environmental studies, traffic studies, design work and preparation of planning documents. I remind the House that this is a major—

The Hon. Greg Pearce: That is $75 million. Where is the rest?

The Hon. JOHN DELLA BOSCA: Plus GST. In late 2002 the RTA received an up-front payment of almost $97 million from the cross-city tunnel consortium, which is a standard part of the payment. Up until 30 June 2005 the RTA had spent $76 million, which I detailed. The remaining money is committed to the final round of works arising from the cross-city tunnel construction.

The Hon. Melinda Pavey: What? Closing roads?

The Hon. JOHN DELLA BOSCA: No. They will include noise walls and changes to help local traffic. It is very important to place on record for the clear understanding of Reverend the Hon. Fred Nile and the Opposition, although no doubt they will continue their practice of playing with the truth, that the

$105 million represents a commercial payment to the RTA plus GST for services performed to bring the project to fruition. It has nothing to do with a secret payment to the Government, nothing to do with a secret political bribe and absolutely nothing to do with a phoney or false incentive for the RTA. It is purely and simply a proper—

The Hon. John Ryan: Revenue-raising opportunity.

The Hon. JOHN DELLA BOSCA: How can it be a revenue-raising opportunity? I have detailed exactly the amount of money required to bring the project to fruition. The Opposition should reflect on the financial viability of major infrastructure projects when it was in government. The Coalition Government gave us the airport rail link. As honourable members would be aware, the taxpayers of New South Wales will pay for the airport rail link and the paucity of its financial risk management for a long time. It has been well rehearsed. The Coalition was responsible for brilliant financial management of the Port Macquarie Hospital. Even the Hon. Dr Arthur Chesterfield-Evans, who has left the Chamber, mentioned the fundamentals. The hospital was paid for twice and was bought back by the Government. One need only to refer to the infrastructure projects put in place by the Greiner-Murray Government to see poor contract management and poor risk management—I have mentioned the two most infamous projects.

One need only refer to any number of inquiries by the Independent Commission Against Corruption about developers, bribes and corruption during the period of the Greiner-Murray Government, the most notorious of which was the North Coast land deal. If I remember correctly, a former Deputy Premier penned an amendment to a file note to the effect of, "Stop stuffing this around." The Nationals create a certain level of infamy about these types of matters. I do not propose to denigrate this important debate by going into any detail. However, I remind them that they do not have to go too far back in history to find poor risk management of financial projects, poor risk management of infrastructure projects, and poor management of probity and proper outcomes for ministerial responsibility. It is not with the Iemma Government or the Carr Government, but the Greiner-Murray Government. If there is a tradition of dubious and shonky financial deals in this State, and poor probity and poor principles of public management, it rests with the Coalition and not with Labor.

I remind the House that the cross-city tunnel, which inserts $600 million of motorway into parts of our city, is a great feat of engineering. With such a great challenge it was necessary to change the city's traffic flows, which requires certain compromises. The Hon. Melinda Pavey got one thing right—she talked of compromises—but she deliberately misquoted the Minister on several occasions. One cannot change the way the city's traffic operates, as has been done, without some compromises. In 2002 a public process determined a range of traffic changes for our city. In 2005, with the advantage of hindsight and after a public process, some of those traffic changes involve too many compromises. The public have been angry and the Minister has been clear in his public attitude to the project, some of the compromises and their many consequences. The Minister has publicly apologised for the frustration and inconvenience experienced by some motorists.

Last Friday Minister Tripodi met with the motorway chief executive, Peter Sansom, and urged him to reduce the toll to get more vehicles into the tunnel and off the surface streets. I heard a number of very good interviews with the Minister explaining these matters in some detail. An obvious point is that if a product is too expensive in the marketplace then the provider should consider the price of the model, which is what he has been asking the proprietors to do. The ball is in the court of the tollway company. Motorists are waiting for a sign of goodwill from the company, as is the Government. If there is a need for further meetings to talk about these issues, the New South Wales Government and Minister Tripodi are more than willing to talk. Much has been made today of the payment I referred to earlier. I urge honourable members opposite to think about the politics of their allegation and to reconsider it in the context of a transparent tabling of the details of all the payments, including a substantial GST component.

In his 2003 report to Parliament, volume 5, the Auditor-General confirmed that his office had examined the summary to ensure it fairly represented the substance of the contract. The up-front payment was cost recovery. Taxpayers did not pay for the construction of the tunnel. I am advised that to 30 June this year the RTA has spent $76 million. The remaining money will pay for other works, including other traffic works. In the medium to long term the cross-city tunnel will improve Sydney and will help enormously with projected traffic congestion. The Hon. Dr Arthur Chesterfield-Evans always expresses the view that the city is dominated by motor vehicle traffic, and that we should get more people onto bicycles and into pedestrian mode. He represents a body of opinion in this Chamber that this city has become far too dominated by the motor vehicle aesthetically, pollution wise and all the other things that he and some of his colleagues in the Greens are concerned about.

But one cannot provide major infrastructure with good environmental outcomes for the city and good job outcomes in the medium to long term without difficult compromises. When the Coalition was in government it signed many deals with the private sector, which often left the taxpayer with the costs of project failure. The Iemma Government does not believe in leaving the taxpayer liable for private sector failures. Those opposite do not want to hear what I have to say. There is an enormous difference. The Hon. Greg Pearce, who is the shadow Minister for Finance, will have to get up very early to add up more quickly than the Minister for Finance. The Coalition has always got this stuff wrong, but we are getting it right. The operators of the cross-city tunnel bear all the commercial risks associated with the project.

If they are unable to continue in a financially viable manner the taxpayer will not be liable—not for one cent. Compare that with the Port Macquarie Hospital and the airport rail line. No public funds will be used to bail out the tunnel operators. It is up to the tunnel operators to consider options to increase traffic volumes through the tunnel. Joe Tripodi, the Minister for Roads, has strongly encouraged the cross-city tunnel operators to reduce the toll or to consider a toll-free period to allow motorists to get used to the benefits of the tunnel. We now await a response from the cross-city tunnel operators. I am advised that the company has indicated it is willing to consider some of the measures suggested by Minister Tripodi.

The frustrations experienced by drivers who do not use the tunnel are understandable. The Government is concerned to ensure that they get satisfaction as soon as possible. But all the changes to surface streets which are taking place in conjunction with the opening of the tunnel are part of the planning approval for the tunnel and related consultation processes. They have already been subject to an extensive public consultation process. When the Government makes significant changes to the roads network there will always be a settling-in process. By contrast to the deals done by members opposite, the cross-city tunnel is a major boost to Sydney's infrastructure and has been delivered with zero risk to New South Wales taxpayers.

People took time to adjust to many of the changes in Bourke Street and Crown Street, and I dare say they have taken a while to adjust to many of the significant traffic changes in the CBD over many years, such as the closing of Pitt Street. And if we want to go way back in history, even the building of the Sydney Harbour Bridge changed people's traffic patterns. The streets that were formerly major traffic thoroughfares are now quiet streets with cycle lanes and outdoor cafes, offering an improved quality of life. I think that over time we will see a vast improvement of amenity as a result of the construction of the cross-city tunnel, which provides an easy way for traffic to pass through the city. Of course there is a settling-in period or a teething period, but the Minister and the Government are committed to making sure that, as far as is possible, the inconvenience to motorists is minimal. I reiterate that the most important factor in this project is that the New South Wales taxpayers have not been exposed to risk.

In conclusion, I point out that the Minister for Roads has made it very clear to the Roads and Traffic Authority and the tunnel operators in very strong terms that he expects them to work together. The RTA and the cross-city tunnel operators will be required by the Minister to produce a resolution of the problems. In contrast to the deals done by members opposite, which have left legacies of confusion for many years in relation to projects such as the Port Macquarie Base Hospital, and the imposition of massive liabilities on the taxpayers such as the airport rail link, the cross-city tunnel is a major boost to the city's infrastructure, which has been delivered by this Government without exposing the taxpayer to any risk. It will be a fine addition to the State's urban infrastructure.

Debate interrupted.

LEGISLATIVE COUNCIL VACANCY

Joint Sitting

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): I shall now leave the chair for the joint sitting. The business of the House will be suspended during the joint sitting. The House will resume at the conclusion of the joint sitting following the ringing of the bells.

[*TheDeputy-President (The Hon. Kayee Griffin) left the chair at 3.52 p.m. The House resumed at 4.30 p.m.*]

The PRESIDENT: I announce that at a joint sitting of the two Houses held this day Penelope Gail Sharpe was elected to fill the vacant seat in the Legislative Council caused by the resignation of the Hon. Carmel Mary Tebbutt. I table the minutes of proceedings of the joint sitting.

Ordered to be printed.

QUESTIONS WITHOUT NOTICE

PORT KEMBLA CAR IMPORTATION CENTRE

The Hon. MICHAEL GALLACHER: My question without notice is addressed to the Minister for Ports and Waterways. What criteria was the basis of the Government's decision to move the centre for the importation of new cars to Port Kembla four years earlier than the target date indicated by the former Premier? Can the Minister assure the House that it is the best freight transport option for New South Wales, or is it a move dictated by financial considerations and the State budget's bottom line?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for his interest in this matter. Yesterday I joined the Premier in Wollongong to announce a $140 million infrastructure plan to transform Port Kembla into Australia's leading car import centre, as well as the construction of new cargo facilities and a third and fourth berth. As the honourable member would be well aware, the Port Kembla facilities encompass 43 hectares, and will handle the 240,000 motor vehicles that come into New South Wales every year. The problem with the Glebe Island facility is that it consists of only 12 hectares. It is commonsense that the best option is 43 hectares, not 12 hectares. Of course, the Port Kembla facility will be of world-class infrastructure standard and will allow more preparation of pre-delivery inspections on the site, which is very important when dealing with these matters.

It is a credit to the Port Kembla Port Corporation that in discussions with Australian Amalgamated Terminals it was able to secure the site and the arrangements. For the Illawarra region, this will result in 1,000 extra direct and indirect jobs, and that is appreciated. I doubt whether members on the other side of the House ever go near that area. This $140 million infrastructure plan will result in $200 million a year to the economy of the Illawarra, which is very important. There are other real benefits from this decision. First, of course, there will be 300 fewer truck movements a day in inner-Sydney streets and suburbs including Marrickville, Strathfield and Bankstown.

The interjections demonstrate the Coalition's complete misunderstanding of the way that car importation works. Very few car dealers operate in the eastern suburbs or the central business district, except the very high-end cars—the type of cars members opposite drive. But in the real world, more than 70 per cent of car dealers operate in the inner-west, the west and the southern regions, including Bankstown—that is, the majority of car dealers. The Government's decision will benefit the industry and give it 40 years of certainty of world-class standard infrastructure in Port Kembla, and that is what the industry wanted. The industry will have the best facilities possible and car importation will be concentrated into one area, a very important consideration.

Last year 240,000 cars were imported into New South Wales. With rising petrol prices, anyone who reads the economic reports would know that there has been a shift from larger vehicles, many of which are produced in Australia, to smaller vehicles. The forecast for next year is an increase in importation of vehicles, that is the smaller vehicles that are now favoured because of the high cost of petrol. It is very important that we have those world-class facilities and we are confident that by 2008 the Port Kembla complex will be completed. It will benefit the people of the Illawarra, the industry and also Glebe Island. The Premier and the Minister for Planning have completely ruled out any residential development on the Glebe Island site. I welcome that decision, because what is needed there is a maritime precinct. A number of facilities still operate around Glebe Island, including those involved in the importation of soda ash, salt, sugar, vegetable oil and lubricants, and they all have long-term leases. It is important that the area be maintained as a maritime precinct and, hopefully, we can increase facilities for recreational boaters in the area.

JUVENILE JUSTICE CENTRES SECURITY

The Hon. GREG DONNELLY: My question without notice is addressed to the Minister for Juvenile Justice. Will the Minister advise the House on measures to improve security in juvenile justice centres?

The Hon. TONY KELLY: The Government places the highest priority on safety and security in juvenile justice centres. Over the past 10 years, $100 million has been spent substantially upgrading or replacing detention centres in New South Wales. New centres have been built at Grafton, Dubbo, the Central Coast—Baxter—and Lidcombe. Male detention centres at Cobham and Reiby are being extensively rebuilt. The Government has increased staffing and implemented better case management in the centres. In 1995 more than

40 per cent of new recruits were not given induction training; and the little training given lasted for less than a week. Detention centre staff are now given about six weeks induction training, and no-one is put in charge of detainees without that training.

Last year the department introduced the objective classification system to better manage the risk of violence or escape by detainees. That system replaced a two-tier grading of A or B with a system of five levels that better describe the risks each detainee represents. Detainee case management has seen improved communication between staff and detainees, leading to earlier intervention with detainees who may present as escape risks. Those reforms are working. The best evidence of that is the significant reduction in the number of escapes from the juvenile justice centres.

Escapes from juvenile justice centres have dropped to single figures; with just nine recorded in the past financial year. That is down from 68 escapes in 1994-95, and is the lowest figure on record. However, as the recent incident at Reiby highlighted, the Government has not eliminated escapes from juvenile justice centres. Indeed, I do not know of any custodial system in the world that has achieved that. I assure the House that I, as Minister, and the department are taking the incident at Reiby extremely seriously. As honourable members would be aware, four detainees escaped from Reiby last Tuesday night. Three were recaptured shortly after, and the fourth was caught near Newcastle early on Friday morning.

They have all appeared in children's courts and they are now back in detention. They are under strict management plans, which includes being handcuffed when they are in open areas. I have ordered an immediate review of security at the centre. An experienced departmental officer and a senior officer from the Department of Corrective Services on secondment to the Department of Juvenile Justice are conducting that review. Last Friday I visited the centre and spoke with staff so I could see first-hand what happened at Reiby. I have also spoken to the officer concerned. I have told the department to proceed with installing razor wire around the perimeter of some internal buildings as well as on the entire external perimeter fence. The incident at Reiby highlighted the need for constant vigilance but I can assure the House that this Government is determined to ensure the gains made in improving security in juvenile justice centres are maintained.

GOVERNMENT BROADBAND NETWORK

The Hon. JOHN RYAN: My question without notice is directed to the Special Minister of State, and Minister for Commerce. Does the contract for the New South Wales broadband network awarded to Soul Pattinson Telecommunications Pty Ltd require that company to give the State Government $1 million worth of advertising on television and direct mail every year for five years? Is it true that the contract states the Government can spend this allocation at its discretion? Does it indicate which regional television companies will benefit from the deal? Has any of that money been used? What specific plans does the Government have to use this allocation in the future?

The Hon. JOHN DELLA BOSCA: This is a momentous occasion. I believe this is the first occasion the shadow Minister for commerce has asked me a question about my commerce portfolio. He has not asked me any questions about public works, industrial relations, WorkCover, information technology, procurement, the Motor Accidents Authority, or any other matter under the commerce portfolio. Clearly, he has no interest in the commerce portfolio. Nonetheless, I thank him for his important question.

Broadband technology has the potential to transform and, more importantly, improve the delivery of important government services. With the size of our State, our government expenditure on telecommunications gives us significant buying power. Given those two important factors, the New South Wales Government has adopted an across government, multi-agency approach to its purchase of broadband telecommunications. The model includes the use of our State-owned infrastructure—for example, the use of the optic fibre already deployed over the high voltage electricity transmission networks owned by TransGrid. As part of this approach we asked industry to bid for the supply of broadband solutions to the New South Wales Government.

On 1 February 2005, after an extensive tendering process—which is about the only thing the honourable member got right in the framing of his question—Soul Pattinson Telecommunications Pty Ltd [SPT] was announced as the successful supplier of the core network services, or what has been described as module A of the Government broadband service. As the Deputy Leader of the Government pointed out earlier, it is a Hunter-based company that is doing very well. The Government broadband service has four key components. The first is a high capacity and secure core network to provide broadband services to 24 population centres in regional New South Wales using fibre optic and microwave infrastructure.

Second, network access points in population centres and in Sydney will provide interconnection points to a competitive range of suppliers providing local access services to other government sites. Third, Internet access services will deliver high capacity and high-speed access to the Internet at a reduced cost to government. Finally, Integrated Management Services will enable agencies to integrate the management of data services on an end-to-end basis to some or all of its sites throughout the State. The Government broadband service aims to improve the extent of access to broadband technologies for government agencies, which means fantastic outcomes for patients in our public hospitals and students in our public schools. It will achieve savings for Government from lower cost services and extend the benefits of the Government's investment to residential and business sectors.

Where this rollout has already occurred, private sector spin-offs have created business and job opportunities, other communication opportunities and a critical mass for a competitive infrastructure in regional areas. Where the Commonwealth Government has failed in telecommunications policy, the Iemma Government has stepped in and delivered the goods for regional hospitals, schools, TAFE colleges, courthouses, police stations, government offices and, importantly, regional small business—the engine room of our economy. In reply to the honourable member's question, as part of this contract, SPT has offered to provide for government advertising.

I simply remind the honourable member that the New South Wales Government has a proud record of advertising for public interest purposes with the utmost probity. I do not think he could point to a single campaign that does not fulfil the basic requirements for providing public information or information about important services. It is the height of hypocrisy for Opposition members to ask such a question when the Commonwealth Government is wasting $100 million of taxpayers' money and this Government is doing everything right. [*Time expired*]

MR GARY BURNS HOMOSEXUAL VILIFICATION COMPLAINT

Reverend the Hon. FRED NILE: My question without notice is directed to the Special Minister for State, representing the Attorney General. Did Gary Burns make a complaint to the Anti-Discrimination Board over remarks made by John Laws on radio station 2UE relating to homosexuality in November 2004? Did the Administrative Appeals Tribunal vote against the attempt by radio station 2UE to have the complaint rejected? I ask the Special Minister of State whether Gary Burns said, "This is a publicity opportunity for me. I can milk the media." Has Gary Burns refused to attend conciliation hearings? Will the Government review the Anti-Discrimination Act to prohibit vexatious and frivolous complaints that take up the time of the tribunal, waste taxpayers' funds and result in heavy legal expenses for 2UE when it is being used as a publicity stunt?

The Hon. JOHN DELLA BOSCA: I do not follow these affairs as closely as does Reverend the Hon. Fred Nile, obviously, but I am certain the Attorney General has a complete brief on this matter and an understanding of it. I will ask him to provide an answer to Reverend the Hon. Fred Nile as soon as practicable.

MURRAY RIVER ENVIRONMENTAL HEALTH

The Hon. TONY CATANZARITI: My question without notice is directed to the Minister for Natural Resources. Will the Minister update the House on the latest State Government ventures to improve the environmental health of the Murray River?

The Hon. IAN MACDONALD: Improving the health of the iconic Murray River is one of the New South Wales Government's top environmental priorities. Along with the Queensland, Victorian, South Australian and Commonwealth governments, New South Wales is a partner in the Living Murray initiative, a $500 million program to return water to the river for environmental purposes. We are also committed to balancing these environmental priorities with the need to ensure that communities along the river have secure access to water for farming and other purposes. This is always a challenging task, especially in the face of the worst drought in 100 years that has drastically limited the amount of water available for the Murray.

The drought has placed enormous pressure not just on farmers but also on ecologically sensitive areas such as wetlands and iconic red gum forests along the banks of the river. Fortunately, we now have infrastructure along the river that enables us to regulate water flows and provide water to the red gums, despite the drought. This was not possible previously so it is a major step forward for the long-term health of the river. One of the ways the State Government has been able to support its farmers during this drought is by the implementation of a water borrowing scheme for the Barmah-Millewa Forest.

Under an agreement forged by the Murray-Darling Basin Ministerial Council in 1993, 100 gigalitres of water is allocated to the forest every year, with New South Wales and Victoria each agreeing to provide an extra 25 gigalitres when possible. However, because of the extreme drought over the past five years this water was not released and was instead borrowed by irrigators who otherwise would have been unable to produce a crop. I am now pleased to be able to inform the House that due to recent rains in the south of the State this borrowed water has been paid back. Allocations to irrigators in the Murray valley have now reached 31 per cent, allowing for 275 gigalitres of environmental water allocation to be released to the forest. Together with the Victorian allocation of 225 gigalitres, this means that 500 gigalitres will be made available to the forest in 2005-06 to improve its environmental health. This great news for the severely stressed Barmah-Millewa Forest does not come at the expense of struggling farmers.

In addition, last month the ministerial council approved a proposal from the New South Wales Government to implement a rescue package for other stressed red gum populations. The package will see up to 11 gigalitres of water allocated to red gum wetlands between Swan Hill and the South Australian border. The latest report indicates that up to 75 per cent of these trees are dying or severely stressed due to the ongoing drought. Under the Living Murray initiative the State Government has been working with our counterparts in Victoria and South Australia to carry out emergency pumping to these areas where possible. However, this has happened on a relatively small scale. The recent rains and resulting boost in dam levels have now allowed us to plan for urgent, large-scale action to prevent these areas from declining even further. Under the rescue package water will be diverted to about 150 separate red gum sites, inundating an area of approximately 7,000 hectares.

The Hon. Duncan Gay: You have got to get some water into the dams before you divert it. There is no water there. He's diverting water he hasn't got!

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition demonstrates his ignorance about the issue. As he would know, the primary source of water for the red gum forests on the Murray River is the Murray River. But the Deputy Leader of the Opposition does not know that the Hume weir is at very high capacity—it is well over 60 per cent—Dartmouth is at more than 90 per cent, the Snowy scheme is well over 50 per cent, the Ovens River has recently been in flood and the Kiewa River has also been in flood. There is ample water. I hope that I have educated the Deputy Leader of the Opposition a little with some facts about the river system in the south of the State. Mind you, in some areas up north, the dams are not so flash as they are in the south. The project will use about 6.3 gigalitres of the Murray River component of the Snowy River water savings program. We are making environmental releases on the Lachlan for the first time in two or three years. In fact, I announced that last month. [*Time expired.*]

CROSS-CITY TUNNEL AND ROAD CLOSURES

The Hon. DAVID OLDFIELD: My question is directed to the Minister for Finance, and Minister for Infrastructure, representing the Minister for Roads. Does the Minister recall my question of 13 September, in which I raised concerns regarding access to the Sydney Harbour Tunnel, which was blocked from the Domain, and lane closures in William Street? Does he recall my asking the following question?

> …what steps are you taking to assist motorists plagued by delays caused by permanent changes to the surrounds of the cross-city tunnel?

Does the Minister recall his answer, brushing aside these concerns and simply pumping up Government propaganda? Given the understandable and growing public frustration and anger caused by what the media are describing as the "cross city funnel", what serious responses does the Minister have to the public's rejection of the tunnel and the pain, congestion and rage suffered as a consequence of the Government's ongoing agenda to force motorists into the tunnel?

The Hon. MICHAEL COSTA: That is clearly a question for the Minister for Roads, to whom I will refer it.

The Hon. John Ryan: What's "Infrastructure"?

The Hon. MICHAEL COSTA: The question was directed through me to the Minister for Roads, and that is where it will go to get a response.

CITRUS INDUSTRY

The Hon. DUNCAN GAY: My question is directed to the Minister for Primary Industries. When will the Minister begin negotiations to renew the citrus industry memorandum of understanding [MOU] between Victoria, New South Wales and South Australia to re-establish the legitimate operation of the tri-State fruit

committee? Why have negotiations still not commenced following a combined Victorian and New South Wales ministerial meeting held in Mildura in June this year that agreed to move towards renewing the MOU? When will the Minister finally renew this agreement to prevent Australian citrus growers from losing market access to countries including the United States of America, Korea, Taiwan and China?

The Hon. IAN MACDONALD: That is a very good question. The Deputy Leader of the Opposition has asked about citrus and the difficulties that we are having in some areas with citrus. To look at the issue in more detail, the problems with citrus exports—

The Hon. Duncan Gay: You are not allowed to discuss the question. Answer it.

The Hon. IAN MACDONALD: I am answering it. Citrus exports to China, for example, are subject to the fact that a couple of years ago China ended the grey import arrangements that had operated through Hong Kong, whereby roughly $100 million worth of citrus was exported indirectly to China through Hong Kong. That has now ceased. It is, of course, subject to discussions as part of the free trade arrangements between Australia and China—indeed, it is probably part of intense discussions. In terms of the memorandum of understanding, we have had substantial discussions and I intend to try to conclude them in the not too distant future.

The Hon. Duncan Gay: When?

The Hon. IAN MACDONALD: I will not put a date on it; these are very difficult issues that must be dealt with. There are quite a few issues. The Deputy Leader of the Opposition might recall—

The Hon. Duncan Gay: Have you started yet?

The Hon. IAN MACDONALD: I have been doing a lot of work on this. The Deputy Leader of the Opposition might recall the report of the Hon. Richard Bull, which dealt with some of the issues within the citrus industry. I undertake to give the Deputy Leader of the Opposition at an appropriate stage—roughly at about the time that I make the announcement—a detailed plan of what we are doing in this area.

MENTAL HEALTH WEEK

The Hon. CHRISTINE ROBERTSON: My question is addressed to the Minister for Health. As this week is Mental Health Week, what is the latest information on the promotion of mental health and social wellbeing?

The Hon. JOHN HATZISTERGOS: Yesterday I had the pleasure of launching Mental Health Week, the aim of which is to celebrate and promote mental health and social and emotional wellbeing across New South Wales. Mental Health Week is being co-ordinated by the Mental Health Association of New South Wales, a non-government organisation that seeks to enable people to achieve optimal levels of mental health. I acknowledge the presence in the public gallery of Marietta Davis, Promotion Manager of the Mental Health Association of New South Wales.

This year's theme for Mental Health Week is "Family, friends and intimate relationships—are we connecting?" The event provided an opportunity for me to acknowledge the important role of non-government and community organisations in providing a range of activities to be enjoyed by the community throughout the week—indeed, about 1,000 events have been organised all over the country. These activities highlight relationships with our partners, children and family and friends that are essential to maintaining our emotional wellbeing. Yesterday as part of the launch of Mental Health Week I had the privilege of presenting the Mental Health Matters Awards. The Mental Health Association has been presenting these prestigious awards for 11 years. They are given to creative and persistent people who have developed innovative and effective programs directed at mental health issues on a local, regional or statewide level.

I have the great pleasure of informing the House that the following individuals received awards for their outstanding contributions. Greg Packer received an award for the Riverina Murray Aboriginal Elders Yarn Up, which involved more than 50 elders participating in mental health workshops and other healthy living activities. Petina Maybury received an award for the Indigenous Suicide Prevention Program, a culturally safe training package developed and presented by Aboriginal and non-Aboriginal workers in northern New South Wales. Awards were also presented to Mark Wheatley for "On the Mind, On the Mend", an art exhibition at Shellharbour; Margaret Bates, the author of *Help for Carers of the Mentally Ill*; Fred Sullivan for his leadership

of the Bipolar Support Group in Dubbo; Marilyn Lloyd for her single-minded determination to improve the community perception of mental illness in Taree; to Lisa Ainsworth for the *Journey to Wellness* project and book; Mariana Wong for the development of the Chinese Consumer Group for consumers isolated by language barriers; and Lauren Malouf for her help with people with a psychiatric disability.

Awards were also presented to George Essery for his 21 years of dedicated service as the founder of the Hornsby Ku-ring-Gai Action for Mental Health Association; Cheryl Deguara from the Australian Rotary Health Research Fund; Sheryanne Smith from Life Activities Inc., a Newcastle-based organisation that produces brochures on mental health issues; to Rhonda Wilson from Central Coast Association for the Relatives and Friends of the Mentally Ill [ARAFMI], a family support organisation that provides innovative services for young people and parents; Leila Wright from the Blue Mountains Shared Care Mental Health Committee; and Paul Edwards from the Rock and Water Program, which is for young men attending high schools in the Coffs Harbour area who struggle with their anger and are reluctant to engage with conventional health care services.

Mental health promotion, prevention and early intervention will continue to be high priorities for this Government. Our prevention and early intervention strategy is directed at people at risk of developing mental illness or whose mental illness is in its early stages. The strategy aims to maintain good health by reducing risk factors and preventing the onset and progression of mental health problems. It will achieve this by bringing together a range of government and non-government services. We now invest $356 million per year in community mental health services. In 2004-05, 2,570 mental health staff were working in the community, providing 2.3 million clinical contacts with patients in the community. I am pleased that Mental Health Week will have a significant focus on highlighting the mental health needs of the population, on promoting positive mental health across all ages and on the importance of social networks and activities in maintaining social and emotional wellbeing.

FORMER PREMIER BOB CARR AND POST-GOVERNMENT EMPLOYMENT

Ms LEE RHIANNON: My question is directed to the Special Minister of State. Will the Minister assure the people of New South Wales that when former Premier Bob Carr takes up employment with Macquarie Bank he will not divulge inside knowledge about government operations gathered during the 10 years of his leadership of the New South Wales Government? Will the Minister enact the recommendations of the Independent Commission Against Corruption [ICAC] report of 16 June 2004 and introduce rules to restrict the range of employment that Ministers can take up immediately after they leave office? Will the Minister assure the House that the Government is serious about ensuring that businesses operating in New South Wales can compete on a level playing field, or will the businesses that sign up a former Premier or former Minister gain an advantage because the Government is not willing to adopt the recommendations of the ICAC?

The Hon. JOHN DELLA BOSCA: I would like to say I thank the honourable member for her question, but I do not. A number of my colleagues, by way of private conversations or interjections—and as interjections are disorderly it could not have been that—said this was a cheap shot. Indeed, it is a cheap, even vulgar shot by a leader of the Greens who knows as well as anyone in this Chamber that Bob Carr set the highest standards of probity of any Premier up until the time of his elevation to the Premiership, and then for 10 good years he set a standard of probity, integrity and transparency in government that made New South Wales second to none in the world in that regard.

The first point I make is that it would be unreasonable for anyone to suggest that Bob Carr, who is now a private citizen, would in any way use or abuse any privilege he might have enjoyed as Premier of this State. The allegation of Ms Lee Rhiannon is totally false, and it does her no credit to make such a completely unfounded suggestion. Ms Lee Rhiannon and other members of this House know that the Opposition has to make political points from time to time, but the Carr Labor Government, and now the Iemma Labor Government, has transformed New South Wales—

The Hon. Duncan Gay: It is the same Government! Don't try to kid anyone. It is just Carr with a funny name.

The Hon. JOHN DELLA BOSCA: It has elements of continuity. I acknowledge the interjection of the Deputy Leader of the Opposition. The level of probity and transparency achieved by the Labor Government in the past 10 years has put New South Wales in very good stead to take its place at the centre of the Australian global economy, and it is one of the reasons that New South Wales and Australia are performing so well economically. The kudos for much of that can be sheeted home to the Hon. Bob Carr and his colleagues, some

of whom are still in government. Ms Lee Rhiannon cannot take that away from Bob Carr, this Government or the previous Government.

The Hon. Duncan Gay: It's crook.

The Hon. JOHN DELLA BOSCA: It is not crook and the Deputy Leader of the Opposition knows it.

The PRESIDENT: Order! There is too much chatter.

The Hon. Amanda Fazio: What about Nick Greiner?

The Hon. JOHN DELLA BOSCA: That is right. I am surprised that Ms Lee Rhiannon is participating in such kooky, class-based morality. Nick Greiner is a member of literally 50 boards. He has leveraged himself around the place for years using his position as a former Premier. I suppose one could say good luck to him. The Hon. Bob Carr is a person of great principle and high standards and he has left a government of the highest probity, with very high standards of transparency. Nothing that is said by Ms Lee Rhiannon in any kooky allegation will take away from that.

Ms LEE RHIANNON: I ask a supplementary question. To maintain the high level of probity about which the Minister spoke in his response, will the Government introduce the recommendations of the Independent Commission Against Corruption that are relevant to this issue?

The Hon. JOHN DELLA BOSCA: I said in answer to the question that I thought Ms Lee Rhiannon was trying to make an imputation about the Hon. Bob Carr and the ICAC report. I have given a full answer to the question.

REIBY JUVENILE JUSTICE CENTRE SECURITY

The Hon. CATHERINE CUSACK: My question is directed to the Minister for Juvenile Justice. Further to his answer to an earlier question, will the Minister explain the ease with which a 15-year-old inmate at Reiby Juvenile Justice Centre was able to lock a worker in his cell, free three friends, exit the residential unit, locate a ladder, climb over a high-security fence topped with razor wire and make good his escape? Given the entire incident would have been filmed on closed-circuit television and relayed to monitors in the administrative area, why was no action taken by other staff at Reiby to assist the worker who was locked up by a 15-year-old boy or to otherwise intervene to prevent the escape? Apart from ordering more razor wire and arranging an internal inquiry, what steps has the Minister taken to prevent a repeat of this farcical escape?

The Hon. Michael Costa: There were 50 such escapes when you were the adviser.

The Hon. TONY KELLY: I correct the interjection of the Minister for Finance. In 1994-95 there were 68 escapes, not 50! There were only nine last year. I refer the Hon. Catherine Cusack to my previous answer and to recent press statements. In my answer I reiterated that a report into the incident and security at Reiby is being conducted by a senior officer of the Department of Corrective Services on secondment from the department and by an officer from Juvenile Justice. I have no intention of making any further comments until such time as that report is concluded.

LIVER DISEASE RESEARCH

The Hon. KAYEE GRIFFIN: My question is addressed to the Minister for Health. What is the latest information on hepatology research in New South Wales?

The Hon. JOHN HATZISTERGOS: Today I had the pleasure of opening the Liver Forum: Biology and Lifestyle, at the Medical Foundation Building at the University of Sydney. The forum presented new liver research that is developing individualised lifestyle intervention programs to manage fatty liver disease by changing a patient's diet and exercise. The project follows on a disturbing increase in incidences of liver disease as a consequence of obesity, insulin resistance and diabetes.

The disturbing facts are these: up to 1 in 10 Australians have chronic liver disease, making it a major cause of illness and death; it is a serious and growing problem in Australia; it is estimated that there are between 400,000 and one million people in Australia who currently have fatty liver disease; fatty liver disease is the most

common cause of liver disease; in the next 10 years fatty liver disease will become the most common form of liver transplants; liver disease is proving to be another lifestyle disease, together with obesity and type 2 diabetes, where excess weight and reduced exercise can lead to life threatening illnesses; and fatty liver disease is the most common disorder affecting 5 to 10 per cent of all adults, and its incidence is set to rise further. It is, however, a preventable condition.

A balanced diet and regular exercise may sound simple but it can make a considerable difference to the health of an individual. The reality is that if people do not modify their lifestyle by exercising and eating appropriately, they may become another statistic. Fatty liver disease, not unlike hepatitis C, can lead to scarring, cirrhosis of the liver or liver failure in some patients. Cancer often develops in scarred livers. Rates have doubled in the past 20 years and are predicted to double again in the next 20 years. Sadly there will not simply be enough donors to meet the demand for transplants. It is also estimated that some 240,000 people are affected with hepatitis C, and this leads to increasing rates of liver failure and liver cancer, and a further 12,000 new cases diagnosed each year. Hepatitis C is the leading indication for liver transplant in this country.

Today's forum was presented by the National Health and Medical Research Council, the Centre for Clinical Research Excellence for improving outcomes in chronic liver disease and the NHMRC program grant investigating molecular and cellular pathogenesis of liver disease. Speakers included the joint chief investigation team from Westmead Hospital, Royal Prince Alfred Hospital, the Millennium Institute and the Centenary Institute.

The Liver Forum aims to inform the community about liver disease, particularly fatty liver disease, hepatitis C and primary liver cancer. The forum reports on research, from basic molecular biology to the clinical application of new treatment approaches and lifestyle programs. Researchers from Royal Prince Alfred Hospital, Westmead, the Centenary Institute and the Westmead Millennium Institute are investigating whether lifestyle intervention through tailored diet and exercise programs can reduce the impact of liver disease. The individualised programs look at barriers to change and motivating factors to achieve a sustainable lifestyle change. Of the 150 participants in the program, early results show a 97 per cent retention rate, which is quite encouraging.

Along with the New South Wales Government's pioneering Childhood Obesity Summit in 2002, the overarching Prevention of Obesity in Children and Young People 2003-2007—my recent announcement of Australia's largest ever obesity prevention trial following the groundbreaking SPANS biomarker study—this latest research demonstrates the Government's commitment to ensuring the liver is not the next casualty of the obesity epidemic.

POLICE HIGH-SPEED PURSUITS

The Hon. Dr PETER WONG: My question is directed to the Minister for Ports and Waterways, representing the Minister for Police. Is the Minister aware that police have consistently provided evidence that they ended police pursuits less than two kilometres before the chased vehicles crashed? Is the Minister also aware that in a high-speed chase, one kilometre can be travelled in less than 20 seconds? Will the Minister seek a report from the Commissioner of Police, to be presented to this House, examining the integrity of police evidence surrounding high-speed chases?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for his question. I will refer it to the Minister for his response.

NATIONAL COMPETITION POLICY

The Hon. GREG PEARCE: My question is directed to the Minister for Finance. What actions have you taken to address the future of national competition payments to the State and how national competition policy will be progressed? Have you sought or had a meeting with the Federal Treasurer, Mr Peter Costello? If yes, what were the outcomes of the meeting? If no, why have you not done so?

The Hon. MICHAEL COSTA: This question was asked of me on a previous occasion and I made the point that the New South Wales Government strongly supports a national competition policy—but one that is sensible not one that seeks to penalise the States for marginal benefit, as we have witnessed with a number of provisions that have come from the National Competition Commission, relating to poultry, rice and a whole range of industries in relation to which the Commonwealth's position is that we ought to deregulate.

The Hon. Dr Arthur Chesterfield-Evans: Dairy.

The Hon. MICHAEL COSTA: Yes, dairy is another. I remind the Hon. Greg Pearce that the Hawke-Keating Federal Labor Government introduced an approach to competition policy that derived economic benefits for the national economy. Under the Howard Government competition policy has been used to penalise and victimise groups in the economy that really do not have market power. We have heard the Federal Government argue recently that in relation to the bigger organisations that have market power, such as some oil companies, it does not have the ability to deal with those sorts of issues.

Clearly, we support a competition policy and a proper process to deal with the framework of competition, but the Federal Government has certainly failed in that regard. I note from the very expensive advertising campaign run by the Federal Government that recent changes to industrial relations policy purport to support competition policy. We all know it has nothing to do with competition policy; it is all about ideology. Labor's approach to competition policy seeks to make the economy more efficient and more effective and derive real benefits for the community, whereas the Coalition's approach to competition policy is about victimisation and looking at ideological solutions, funded by taxpayers through expensive campaigns to push an ideological agenda. The Federal Government does not understand the benefits of competition policy.

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

The Hon. MICHAEL COSTA: I suggest that if the Federal Government studies the record of the Hawke-Keating Government, it will realise how it can implement competition policy in a way that benefits the national economy.

REGIONAL ACHIEVEMENT AND COMMUNITY OF THE YEAR AWARDS

The Hon. HENRY TSANG: My question is directed to the Minister for Lands. Can he tell the House what the Government is doing to celebrate and acknowledge the achievements and initiatives of community groups and organisations in the bush?

The Hon. TONY KELLY: The many triumphs of the people of rural New South Wales are recognised in the regional achievement and community of the year awards. The New South Wales Government is once again proud to sponsor these awards in this State. The community of the year award is sponsored by the Department of Lands for the third year running. It recognises the exceptional achievements in shaping local communities, towns, cities and regions, and is divided into two categories. One award is granted to a town with a population over 15,000 and one to a town with a population under 15,000. Close to 80 nominations were received this year, the greatest number received so far. From these nominations, six outstanding finalists have been chosen.

The Bellambi Neighbourhood Centre in Corrimal has been nominated in the category for towns with a population of over 15,000. The centre has operated for a quarter of a century and is managed by 10 local people. They have improved local amenities and worked with the Bellambi Public School to plan, resource and implement a breakfast program for students, as well as provide much-needed services for the local community.

Another example of the excellent work being done in regional New South Wales is the Coastal Community Tenancy Scheme in Toukley. It provides subsidised housing to people on low incomes and manages 225 properties under several different program types. The third finalist in this category is the Creative Riverina Youth Team in Griffith, which was formed in 2002. After three years of hard work the youth team is delivering a $380,000 project called Visible Youth Action. The team consists of young people between the ages of 13 and 25. Their vision is to empower young people, strengthen the community and act as a catalyst for change. Events and initiatives organised by the team are designed to celebrate diversity and engage the area's youth and broader community. The three finalists in the category for towns with a population under 15,000 are also involved in impressive projects. One is the tiny town of Bribbaree, which, for those who want a more specific geographical area, is near Young. Groups ranging from the bowling club, the show society—it is a very active show society; I opened the local show three years ago and provided some money to upgrade its kitchen—the Catholic Women's League and the Tubbul Campdraft Association to the Rural Fire Brigade, organise functions and community events to raise money for town improvements. Bribbaree has been in drought for four years, and all these groups work together to undertake town activities and upgrade community facilities. In Manildra, which is between Orange, Parkes and Molong, in the centre—

The Hon. Rick Colless: Near Cargo.

The Hon. TONY KELLY: It is north of Cargo. In Manildra, drought and limited local spending were major issues for the town. The Manildra and District Improvement Centre helped the community regain some key services that had been lost. For example, the post office now sells electrical and computing goods and the general store provides dry cleaning and credit union services. In Milparinka the Heritage and Tourism Association has capitalised on the tourism potential of this once-flourishing mining town.

The Hon. Duncan Gay: Near Tibooburra.

The Hon. TONY KELLY: Near Tibooburra. The six finalists demonstrate great work being done by people and groups in rural and regional New South Wales. The winner will be announced at Wagga Wagga on 26 November. The winner in each category will receive a $5,000 Commonwealth Bank account.

AVIAN INFLUENZA

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question is directed to the Minister for Health. Are any contingency plans in place to contain and prevent the spread of a bird flu pandemic in New South Wales? If so, what are these plans and how would New South Wales implement them?

The Hon. JOHN HATZISTERGOS: The honourable member's question follows on from a question I was asked a couple of weeks ago in the House to which I responded. In June 2005 the Australian Government released the Australian Management Plan for Pandemic Influenza. New South Wales Health is in the process of revising its influenza pandemic plan in light of the national plan, and also the latest information from the World Health Organization, whose experts have been visiting countries in South-east Asia. In Australia the National Influenza Pandemic Action Committee meets regularly to review the threat to Australia from avian influenza. The Australian Quarantine and Inspection Service has been on high alert for the illicit importation of bird products since the first cases were reported. In New South Wales an expert panel, the infectious diseases emergency advisory group, advises on the public health implications of influenza diseases threats to the State, including avian influenza. Plans for the control of an outbreak in New South Wales have been developed.

New South Wales has been working with area health services, which will provide an emergency management response to an outbreak of pandemic influenza. New South Wales Health also will rehearse its emergency plans with other New South Wales and Australian Government agencies at a national exercise co-ordinated by the Commonwealth Department of Agriculture, Fisheries and Forestry later this year. New South Wales has set aside a stockpile of personal protective equipment—including gowns, goggles, gloves and masks—that could be used in the event of an influenza pandemic. We are the only State that has a quantity of the antiviral drug as part of our stockpile. Our stockpile would be used to treat influenza cases or prophylaxis in the event of an influenza pandemic until the Commonwealth stockpile is dispensed.

On 28 September the New South Wales Chief Health Officer, together with chief health officers of other jurisdictions and the Federal Minister for Health, Mr Abbott, participated in a meeting to discuss preparation of the various States. A number of issues that were raised at the meeting still need to be resolved, including dispensing of anti-influenza drugs from the national medical stockpile and how they are to be used, particularly in protecting those individuals who have high exposure to the virus, such as health care workers and those working in the poultry industry. The meeting also confirmed details of the requirement to quarantine people infected with pandemic influenza and contacts of these cases, and discussed refining the national policy to ensure best practice for dealing with those with pandemic influenza or those exposed to the virus. The meeting discussed ensuring mutual recognition of health care workers to enable them to move quickly around Australia to deal with the pandemic, and instituting plans to cope with potentially significant reductions in the work force. I am hopeful that these matters can be resolved at further meetings.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I ask a supplementary question. Will there be strict controls on the movement of people, as there were in China, which successfully contained the epidemic of severe acute respiratory syndrome?

The Hon. JOHN HATZISTERGOS: That issues still needs to be resolved, as I indicated in my press release following the meeting on 28 September.

GREATER HUME REGION FIRE TANKERS

The Hon. MELINDA PAVEY: My question without notice is directed to the Minister for Emergency Services. What guarantees will he give to volunteer firefighters at tonight's meeting in the Riverina that he will not remove 13 tankers from the Greater Hume region in the lead-up to the coming fire season?

The Hon. TONY KELLY: Earlier, when the honourable member made her contribution on the cross-city tunnel, she neglected to refer to me as Leader of the House. She kept looking at the Special Minister of State, addressing him as the Leader of the House. I know she was confused, but I am not sure how confused she was. I am not aware of any moves to remove fire tankers from anywhere in the State, except for the purpose of replacing them. Every year we budget for something of the order of 200 new or refurbished fire tankers. We have 2,400 tankers, and this year the exact replacement figure is 204. I am not aware of the assertion in the honourable member's question. However, I will take the question on notice, and get a response to it.

FEDERAL GOVERNMENT INDUSTRIAL RELATIONS POLICY

The Hon. IAN WEST: My question is to the Minister for Industrial Relations. Will the Minister advise the House of the draconian effects on new employees of the Commonwealth's industrial relations proposals?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his ongoing interest in industrial affairs. As we are bombarded with tens of millions of dollars worth of Liberal Party advertising, funded by the unfortunate taxpayer, I recommend that honourable members consider a surprisingly candid example of the effects of the Commonwealth's proposals listed on page 15 of the so-called *WorkChoices* document, which refers to Billy, an unemployed jobseeker who is offered a full-time job as a sales assistant. Last night on the*7.30 Report* the Prime Minister quite proudly said that Billy's example was included at his insistence. Mr Howard said it is a completely transparent example. Let us examine the transparency. The work Billy has been offered is covered by a Federal award. However, the job offer is "contingent on him accepting an AWA". I will quote directly from the example:

> The AWA Billy is offered provides him with the relevant minimum award classification wage and explicitly removes award conditions for public holidays, rest breaks, bonuses, annual leave loadings, allowances, penalty rates and shift overtime loading. Because Billy wants to get a foothold in the job he agrees to the AWA.

The Prime Minister wanted this example included because it illustrates clearly that the aim of the package is to get rid of award conditions: wages down, conditions out. The Prime Minister thinks that is a good example because it gets Billy a job, but at what cost. The cost to Billy is self-evident. He accepted a job at the minimum wage of $12.75 an hour before tax. He has given up his right ever to be covered by an award or a collective agreement. When working for that employer he will never have the right to a public holiday or a meal break. Billy's hours are annualised, which means that his employer can roster him for an unlimited number of hours each week without any additional pay and without any meal breaks.

The Hon. Eric Roozendaal: Outrageous!

The Hon. JOHN DELLA BOSCA: It is outrageous. If Billy is lucky, he may keep his job for 12 months and have the hours averaged out. But if he is unlucky, he will get the sack and never see a cent for any additional hours worked. He can do nothing about it. Billy now gets to work as a second-class citizen beside other employees who, presumably, already have a job and who are covered by an award. But that is okay because, according to the Prime Minister, Billy was unemployed. How will that affect Billy's motivation and productivity? How will it affect his attitude as a citizen when his workmates can go out for lunch, but he will be expected to stay at work? But Billy signed an Australian workplace agreement [AWA] and he was unemployed. According to the Prime Minister he does not deserve a lunch break.

What about the cost to Billy's family? Billy has lost control of his hours of work, which means that he cannot make secure arrangements to care for his children before or after school—the uncertainty no doubt adding to his potential child-care costs as well as family tensions. And, of course Billy has given up his right to spend Christmas, Easter and other holidays with his family and friends. According to the Prime Minister—who, I am sure, does not work on Christmas, Easter or other public holidays—Billy's AWA specifically excludes public holidays, but that is okay because Billy was unemployed.

Billy will be employed at reduced pay and there will be no job security, which makes it harder for his family to borrow money to buy a home or to pay rent. The Prime Minister says, with complete transparency, that all this is okay because Billy was unemployed. The example provided by an arrogant and out of touch Prime Minister makes it clear what the Commonwealth Government aims to achieve by these changes: low wages and the elimination of award conditions.

BROADWATER SUGAR MILL

Mr IAN COHEN: My question is addressed to the Minister for Natural Resources, Minister for Primary Industries, and Minister for Mineral Resources. In relation to the Broadwater sugar mill on the North

Coast, will he outline any plans to begin burning fuels other than the currently used sugarcane waste? Can he confirm that camphor laurel chips will be burned to create power at the mill, but that, as yet, there have not been any trials here or overseas of the burning of such chips? Is it possible that the burning of this wood will release up to 10 different types of toxins into the atmosphere? Will he assure the House that under no circumstances will native forest be burned at the mill? Will he confirm that asbestos has been recently removed from the mill, contrary to WorkCover regulations?

The Hon. Duncan Gay: You hate to see someone having a go, don't you?

Mr IAN COHEN: It is interesting that the Deputy Leader of the Opposition complains about asbestos being cleared out in a way that is contrary to WorkCover regulations. Is it true that the firm that carried out the removal did not have a New South Wales licence to do so?

The Hon. IAN MACDONALD: I would like to answer the question but, unfortunately, it is a matter for the Minister for Utilities because it relates to energy. I will refer the question to the Minister. In general terms, I support co-generation. We should be looking at ways of maximising energy use and reducing waste. I cannot see anything wrong with that. As for camphor laurel, fancy the Greens coming into this House and having a bit of a go at the potential use of camphor laurel. It is a weed, and there are tens of thousands of hectares of it in the northern part of the State. I suppose the Greens in the northern part of the State are becoming a bit lethargic and lazy and see it as a lovely tree, but I do not. I see it as a weed.

Mr IAN COHEN: I ask a supplementary question. As Minister responsible for forests, will the Minister confirm or deny that native forest timber will be used in the future co-generation plant?

The Hon. IAN MACDONALD: I will refer the components of the question relating to energy to the relevant Minister.

Mr Ian Cohen: This is yours.

The Hon. IAN MACDONALD: I have not made a decision in relation to this matter.

Mr Ian Cohen: Of course it is yours. It is your department.

The Hon. IAN MACDONALD: This is something that it is absolutely endlessly being stirred up by the Greens. I am not going to participate in Mr Ian Cohen's debate, as he whips up a few people who have a bit of misinformation. The Government will deal with all of these issues effectively and properly as it does when considering all of the environmental aspects of any decision. I will not play games with Mr Ian Cohen.

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

DEFERRED ANSWERS

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

LEURA RESPITE FACILITIES

On 13 September 2005 the Hon. John Ryan asked the Minister for Disability Services a question without notice regarding Leura respite facilities. The Minister for Disability Services provided the following response:

> 17 clients were accessing respite at the Greystanes facility on a regular basis. Case Managers have found alternative arrangements in the region for 14 clients. The remaining three clients will have alternative respite arrangements in place before the facility closes.

CANOLA CROP CONTAMINATION

On 21 September 2005 the Hon. Peter Breen asked the Minister for Primary Industries a question without notice regarding canola crop contamination. The Minister for Primary Industries provided the following response:

> On 15 Sept, I informed Budget Estimates Committee that in response to the discovery of GE contamination in canola variety trials on NSW farms that "we sprayed and that eradicated the problem".

My response to a subsequent question, correctly indicated that, "the Department acted expeditiously to rip [the] crops out prior to flowering, so any risk of cross-contamination was eliminated".

A certificate under Section 14 of the Gene Technology (GM Crop Moratorium) Act, 2003 was not required because Section 14 relates to Ministerial directions. The Department elected to destroy the affected trials. This means that I was not required to, and nor did I direct their destruction.

The Department elected to destroy the affected trials in respect of which the Director-General issued a permit for the destruction of the plants, as required under Section 20 of the Act.

Matters relating to the detection of unintended presence of GM material in NSW have been referred to the NSW Agricultural Advisory Council on Gene Technology. A suitable date for a Council meeting is currently being negotiated.

GENETICALLY MODIFIED CANOLA TRIAL

On 21 September 2005 Mr Ian Cohen asked the Minister for Primary Industries, a question without notice regarding a genetically modified canola trial. The Minister provided the following response:

The National Variety Trials are conducted by the Australian Crop Accreditation System and are completely independent of the Department.

To date, the Australian Crop Accreditation System has not indicated how many Australian farms involved in the National Variety Trials may have an unintended presence of GM canola, or whether it has notified farmers involved in these trials about the possible unintended presence of GM canola.

Canola lines Victory 100 and Victory 101 have been confirmed by the Victorian DPI as having a very low level (0.04 per cent) unintended presence of the Monsanto Roundup Ready genetic material. This level equates to one plant in 2,500—in other words—roughly one or two GM plants at each trial site.

Neither the Minister nor the Director-General has forbidden the NSW Department of Primary Industries from informing affected farmers although it is acknowledged that the Australian Crop Accreditation System has a responsibility to notify farmers given that it conducts the trials and knows the location of all trial sites.

The lines Victory 100 and Victory 101 are included in National Variety Trials at fifteen (15) locations in NSW, viz Croppa Creek, Gunnedah, Wellington, Coonabarabran, Bellata, Albury, Deniliquin, West Wyalong, Ariah Park, Lockhart, Cowra, Harden, Grenfell, Parkes, Wagga Wagga.

There is no need for me to instruct that these farms be notified because my Department is not involved in the trials and notification is more properly a matter for the Australian Crop Accreditation System, which runs the Australian trials and knows their locations.

CHRISTOPHER JOHN LAYCOCK

On 22 June 2005 the Hon. Michael Gallacher asked the Minister for Justice, representing the Minister for Police, a question without notice regarding Christopher John Laycock. The Minister for Police provided the following response:

The Police Integrity Commission (PIC) has advised me the Honourable Member's assertion regarding a police recommendation is completely erroneous. The PIC also advises that this investigation remains open. It would therefore be inappropriate for me to comment further.

Questions without notice concluded.

CROSS-CITY TUNNEL

Adjournment (Standing Order 201)

Debate resumed from an earlier hour.

The Hon. DON HARWIN [5.33 p.m.]: I am pleased to participate in this debate. I applaud my colleague the Hon. Melinda Pavey for raising this issue as a matter of urgency in her capacity as the Roads spokesperson in this Chamber. She is doing a very good job in that role. Today we have been shocked by revelations that the Government asked the cross-city tunnel contractors to pay $105 million for cost recovery.

The Hon. Catherine Cusack: It is a fee for service for screwing up the traffic.

The Hon. DON HARWIN: I read that the payment was allegedly cost recovery over a 30-year period, but even over that period I wonder how on earth there could be $105 million in costs to be recovered. In my capacity as the Liberal Party's representative of central Sydney in the Legislative Council, I have received numerous representations related to this issue not only from members of the Liberal Party but also from members of communities in the eastern suburbs. This is an extraordinary project and it is a cause of immense concern to the community.

One of the outcomes of this project is that it has taken away from eastern suburbs residents the option of a public road between the eastern suburbs and the North Shore. It denies them the opportunity of driving on a public road in a relatively straightforward direction from the eastern suburbs to the Cahill Expressway and the Sydney Harbour Tunnel. Effectively they have lost their right to drive in a direct route on a public road from the eastern suburbs and link up with the Sydney Harbour Bridge. We now have the ridiculous situation of people either taking circuitous routes through the back streets of Woolloomooloo or becoming tied up in a conga line of traffic along William Street and Macquarie Street.

The Hon. Greg Pearce: A Lathamesque conga line.

The Hon. DON HARWIN: A Lathamesque conga line indeed. This Government and the Roads and Traffic Authority are responsible for the conceptual failure of this project, which is a disgrace. Another revelation that justifies the adjournment of this debate and the attention of this House is that the contract provides for further strangulation of the capacity of eastern suburbs roads. That is just incredible. In the event of projected levels of traffic through the cross-city tunnel not being reached in line with the highly unrealistic figures in the contract, incredibly there may be a further reduction in the traffic capacity of Macquarie Street and Hunter Street. Can honourable members believe that?

Even before the project, it was difficult enough to drive along Hunter Street, but as a result of the cross-city tunnel project, Macquarie Street has become almost a car park. St Marys Road will be adversely affected. I am sure that many people of the Catholic faith would be horrified at the prospect that, as part of the contract, the capacity of St Marys Road to take traffic will be reduced. The project will impact upon other significant public facilities, such as the New South Wales Art Gallery, the Sydney Hospital, the State Library and Parliament House. All of those ramifications are part of the contract that the Minister for Utilities and this Government negotiated.

However, it gets worse from the point of view of people who live in the inner eastern suburbs. The contract allows for a further reduction of roads capacity in eastern Sydney, including Darlinghurst, Woolloomooloo, Rushcutters Bay, Woollahra, Double Bay and Bellevue Hill. It is not as though they are currently easy suburbs to drive through, yet there will be further road closures in those suburbs as a result of this project. The inner western areas of Sydney will be adversely affected, including Pyrmont, Ultimo and Glebe. Central Sydney will become a car park as a result of this contract, which is extraordinary. Having made those brief comments, I reiterate my support for the motion moved by my colleague the Hon. Melinda Pavey. The Government stands condemned for its handling of this project.

The Hon. JOHN RYAN [5.40 p.m.]: I cannot believe the hypocrisy of the Special Minister of State. In debate he shed the most phenomenal crocodile tears about the problems that the Government associates with the cross-city tunnel project. When the cross-city tunnel was announced most Sydneysiders thought it would improve traffic flow and increase traffic infrastructure in the city. Instead, we have discovered that it is a backdoor method of reducing traffic flow in the city. Honourable members would remember that when the cross-city tunnel was due to open arrangements were in hand to ensure that the new Premier of New South Wales would have the opportunity, as one of his first tasks as Premier, to open the tunnel. What a fiasco that proved to be, because the tunnel opened a month later than its scheduled opening.

Today we have discovered the $106 million payment to the Government, allegedly to cover infrastructure costs associated with the construction of the cross-city tunnel. Construction of the tunnel cost $600 million, so how on earth could associated tunnel works possibly cost $106 million? Allegedly that payment was required for work that the Government had to carry out to make the construction possible. It is an absolute nonsense. Apparently taxpayers are paying the Department of Planning and the Roads and Traffic Authority to do their normal work. Allegedly the $106 million has something to do with cost recovery, but how could cost recovery amount to 20 per cent of the construction costs of the tunnel project?

The Government is trying to dive into the contract to get some of the profits that the proponents and owners of the tunnel will make. And who will pay for that? Sydney motorists. Earlier the Minister suggested that somehow this extra amount does not represent a cost to the taxpayers. I inform the Minister that many of the people who are using the tunnel, and paying $20 week or almost $1,000 a year to do so, are taxpayers—they are one and the same. The Government has added $1,000 a year to many family budgets, but their road infrastructure has been reduced, not increased. When the tunnel opened the right-hand turn into Palmer Street off William Street was closed.

That very night Mr Willoughby of the Roads and Traffic Authority confessed on television, for all to see, that that road closure was about guaranteeing commitments given under the contract to ensure a certain level of traffic flow into the tunnel. He admitted that on television, up front. We then discovered that Oxford

Street and William Street are to be narrowed and that other associated works had been designed to funnel traffic into this overpriced tunnel, adding an extra $1,000 a year to people's travelling budgets. What an outstanding achievement on the part of the Government! It has built infrastructure, which the Minister lauded as wonderful engineering, which reduces the traffic flow amenity in the inner city.

The Minister for Roads, Mr Tripodi, was seen at his best when interviewed by Alan Jones early on the morning of those revelations. Mr Tripodi thumped the table, saying, "This is a commercial decision for the proponents. They are free to charge whatever toll they wish." He supported everything the proponents had done to date. As the anger grew, and as there were more interviews, Mr Tripodi banged the table saying that he wanted to meet with the proponents to urge them to cut the toll. What nonsense—he knows that they will not cut the toll. The Minister knows that he can flail his hands in mock anger until the sun sets, but nothing will happen—the tunnel will continue to cost $4 per trip and will continue to be underutilised. However, the Government persists with the outrageous narrowing of William Street, the outrageous refusal to not allow a right-hand turn into Palmer Street and the outrageous decision to narrow the traffic capacity of Oxford Street.

Those decisions will stuff up inner-city traffic, particularly, as the Hon. Don Harwin said, along Macquarie Street and Hunter Street. What an outstanding achievement! When one hears the Hon. Joe Tripodi, the Minister for Roads, and the Hon. John Della Bosca, the Assistant Treasurer, it sounds as though they are talking about some other government when they say, "Too many compromises were made." I ask: Who made them? The then Carr Government, the current Labor Government, which is now pretending it had nothing to do with that arrangement and saying that it cannot do anything. The Government will wear this decision like a millstone around its political neck. The Government made this mess and it is up to it to find means to solve the problems because the motorists of Sydney will not forgive them for the outrage that is the cross-city tunnel.

It is no good for Mr Tripodi to tell us that he will get angry and ask the tunnel proponents to cut the toll, because he knows full well that will not happen. Maybe over time the tunnel will become further utilised. However, it is outrageous that an extra 50¢ was added to the toll because of the consumer price index adjustment on the day that the tunnel opened. On the same day there was a 50¢ increase in the cost of the Eastern Distributor toll. It is no surprise that the many motorists who would have used both tunnels, had the tolls not been increased, have chosen not to do so. The tunnel project has been completely mucked up by the Government, from beginning to end, and now it wants to blame someone else.

I never cease to be shocked at the capacity of the Labor Government to try to shift the blame for its stuff-ups—it blames the Federal Government, the weather or some other situation. It now wants to blame the proponents for this stuff-up, but the Carr Government signed the contract. The Government alleges that the tunnel project was open to public consultation. Perhaps it was open to public consultation—perhaps at midnight on a public holiday! Quite obviously, when the documents were put out for consultation neither the Government nor the people of Sydney fully comprehended what would happen. Few people understood that the opening of the tunnel would result in a reduction of traffic flow in the inner city. That is what happened.

The Government ought to be honest about this, because the consultation was not open. The Government did not explain that as a result of the tunnel opening it would deliberately reconfigure the streets of the eastern suburbs and the inner city to ensure that a certain amount of traffic flowed into the tunnel. If people do not use the tunnel, they face long delays in other streets. The Government never explained that. There may have been pretty pictures in brochures that hung around various places for people to look at, but those bold facts were never explained to the people of New South Wales, particularly the people of the inner city, when the tollway was first mooted. No-one had any idea that the tunnel would have this impact, and the Minister ought to be honest enough to say so. He ought to come up with a facility that ensures that, at the very least, something will be done about the right-hand turn into Palmer Street.

Traffic congestion in other parts of Woolloomooloo is unbelievable, with people doing rat runs while trying to find alternative routes to the Cahill Expressway. It is obviously in the best interests of the public that the right-hand turn into Palmer Street be reopened. The decision to close it was outrageous in the first place, and should not have been part of the contract. It must be one of those many compromises that Mr Tripodi was talking about yesterday. It is time for the Government to not just flail its hands in mock indignation, it is time for the Government to come up with a plan because Sydney is too important a city and its traffic flow far too important to allow it to become the subject of this stuff-up that the Government has created in the cross-city tunnel.

The Minister gave an incredible explanation about why the Government received $106 million. Perhaps he could give back some of that money in return for changing some of the contract items. No doubt the money

has not yet been fully received and therefore has not yet been spent; that might be an option for the Government to consider. Why not give some of the money back to the tunnel proponents in order to change some of the more outrageous aspects of the scheme? For instance, it could delete the requirement for transitways in William Street, where they will not be needed. Today in the media I saw an announcement that many transitways are ineffective because they are difficult to police. They just muck up the traffic—I think Mr Harold Scruby of the Pedestrian Council of Australia said that. Regardless of whether that is true, there is clearly a problem. The Government is doing nothing but wringing its hands. This is a problem of the Government's making, and the Government ought to fix it.

The Hon. GREG PEARCE [5.50 p.m.]: The cross-city tunnel is an outrageous example of this Government going way too far in its merciless grab for money wherever it can get it. The concept that a project could be delivered by the private sector at no cost to government is a legitimate and sensible proposition in relation to infrastructure projects, but in this case the Government has taken that concept and perverted it into a grab for a hidden fee, a slug on the toll paying public, which will last for the term of the lease of the project. Today quite a bit of concern was expressed about the $105 million fee for this project. The contract summaries that were released by the Government in accordance with its obligations describe the payment as a development fee. They describe the payment as "a fee for the right to undertake the project", which is completely contrary to the concept of a no cost to government proposition.

To hear the Minister today attempting to justify the payment by listing various payments that he claims were the costs of this project simply begs the question: Is he telling the truth? I support the comments made by a number of other honourable members who spoke today and who called for the release of documents that will show conclusively whether this was a development fee, a fee for the right to do the project, a profit grab by the State, or a legitimate reimbursement of costs associated purely with delivering this project. I am sure that will enable us to tell whether the Minister lied to the House today or whether what the Government is claiming is true, in which case we will all be astonished to understand how $105 million of costs could have arisen.

This is not just a problem for the Government in relation to this project; another couple of projects are currently under way. In each of those projects the Government has also made a grab for an extra slug on the toll paying public. When one goes to the contract summaries for the Lane Cove tunnel project one discovers a slug, a development fee, a fee for being given the Lane Cove tunnel project of $79.3 million, plus GST. The Minister should get his advisers to start working on an explanation for that one. On the M7 west link the fee is $193.48 million, plus GST. The reason I emphasised the words "plus GST" is that GST is paid on a fee, it is paid on a development fee and it is paid on a transaction. It is not paid on reimbursement of expenses.

So the Government, by its own documentation, is admitting that this was a fee, a grab, an extra tax and a hidden slug on the toll paying community. Honourable members should bear in mind that in large part the M7 is funded by the Federal Government. So that is a major concern. There are a number of other major concerns in relation to this project. Again, referring to the contract summary, it states that the Roads and Traffic Authority [RTA] provided projections for the usage of the cross-city tunnel. Minister Tripodi might blame the company or suggest that it got it wrong but he might want to explore how his RTA gave those projections to that company.

The Minister blithely stated he did not think there were any problems for the Government in relation to this project but he might want to explore what sorts of liabilities there are under the contract, whether there have been misrepresentations in relation to these figures, whether they have been wrong and whether the RTA has not done its job properly. We heard also about air filtration for this tunnel. That issue was raised mainly in the context of the number of potential users. I think it might be worth having a look at the standard of air filtration in this tunnel. My good friend the Hon. Charlie Lynn, who is not in the Chamber at the moment, would know that many members in this place have to use the M5. For a long time we have been concerned about air filtration in the M5 tunnel. It might be quite instructive to compare air filtration in the M5 tunnel with the facilities in the cross-city tunnel. I again ask Mr Scully how he can justify not improving air filtration in the M5 tunnel.

The Hon. Rick Colless: He simply cannot add up. He cannot do the calculations. He is Minister for Police, is he not?

The Hon. GREG PEARCE: He has certainly run away as fast as possible from this responsibility. The only unfortunate thing is that he is not the Premier. Instead we have Premier Morris Mirror—"I will look into that."

The Hon. Amanda Fazio: Point of order: The Hon. Greg Pearce well knows that he should refer to members either in this Chamber or in the other place by their proper titles. He should not attempt to make silly

little jokes about their names. I ask you to ask the Hon. Greg Pearce to follow the standing orders. If he wants to refer to the Premier he should refer to him by his proper name.

Madam DEPUTY-PRESIDENT (The Hon. Patricia Forsythe): Order! A convention of this House, which is supported by numerous rulings of Presidents, is that a member must refer to members of this House and the other place by their correct titles.

The Hon. GREG PEARCE: I was not reflecting on the Premier's actions. However, Premier Iemma was Minister for Public Works during the period of these contracts. When I looked for evidence of his involvement in preventing the Government from getting into the trouble in which it now finds itself I was reminded that as Minister for Public Works he did not have any responsibilities other than to move a few bureaucrats around central business district offices. He was also responsible for ordering the stone for repairs to some of the heritage buildings, including this building. We are told that the tunnel is now attracting about 20,000 cars a day, which is significantly below the operator's target of 90,000. The Government should get its facts right on its projections. In the budget papers the Government talks about a figure of 105,000. I would be interested to see just what those projections reveal.

Whilst I am on the budget papers, I emphasise the fact that this was no reimbursement of expenses; this was an unexpected windfall that the Government dragged out of these companies. I invite members to refer to the budget estimates for 2003-04 where they will find accounted for two of the payments received in 2002-03. Where do honourable members think they appeared and how do they think those payments were described? They were described as other revenue. The budget for other revenue was $50.8 million but—surprise, surprise—the Government received $344.9 million in other revenue and there is no explanation for it. It happily appeared as the Government collected this money, which had never been expected or budgeted for in relation to reimbursement. It is just a slug that taxpayers and toll users are going to have to pay over a period.

I refer briefly to another issue that has been referred to in the media—the toll increases that were built in as a way to pay this $105 million. Those toll increases, which were put in place by the Government purely to facilitate this massive and unexpected payment, are a slug on the community.

Ms LEE RHIANNON [5.59 p.m.]: I welcome this opportunity to discuss the cross-city tunnel debacle. However, we must remember that, while we in Parliament have this chance, residents and business people hit hard by this ill-conceived tunnel project cannot get the ear of government. This tunnel deal has many ugly aspects. One key problem is the lack of meaningful consultation. Yes, there were meetings with local residents, but these events—which were nothing more than a tick in the box for the Roads and Traffic Authority [RTA] as proof that it had consulted the community—in no way delivered satisfactory outcomes. These meetings changed nothing. The Government, after a round of feedback and consultation, simply ploughed on with its original plans.

This deal is an example of how public-private partnerships play out. As part of the Greens' Very Cross City campaign, I met this morning with small business owners and residents in the vicinity of the cross-city tunnel to discuss the impact of tunnel-induced road closures. These residents and businesses certainly need support. Some of the stories I heard from business owners were most concerning. For example, three generations of Peter Carroll's family have run a hardware shop on William Street since 1923. It is the only hardware shop in the area. Surely this Government should be committed to retaining small business diversity in that locality. However, more and more businesses are going under. We hope that Peter Carroll's business will not be one of them, but it is not looking good.

Peter used to employ two people to work alongside him in the shop. But he has been forced to let them go because of the drop-off in business caused by the cross-city tunnel. Peter now has enormous problems getting deliveries to the shop because trucks can no longer stop around the back. Large trucks are forced to stop on William Street, which is a most unsatisfactory place to unload goods. It is clearly a very bad situation. This morning I also met representatives of the Darlinghurst Business Partnership, which has about 100 business members—and their number is expanding rapidly. Members such as restaurants, cafes, dry cleaners, clothing stores and so on are supporting each other at a time when the Government is quite difficult to deal with. Those business owners know that, while Joe Tripodi is happy to meet cross-city tunnel operators, they and residents are not on his to-meet list. This Government has lost the plot when it comes to managing traffic, managing people and managing this city. It is time that Premier Iemma intervened. The Minister for Roads, Joe Tripodi, needs to go. Perhaps he should get another ministry—

The Hon. Rick Colless: No, no.

The Hon. Melinda Pavey: Just go, full stop.

Ms LEE RHIANNON: I acknowledge the interjections. Clearly, he is not up to the job. Anybody who has heard the tortuous interviews with the Minister on this subject knows that.

The Hon. Melinda Pavey: He didn't sign the deal, though, Lee.

Ms LEE RHIANNON: No, he did not sign the deal but he is part of the Government. The Government has a problem and the Minister is not coping. He simply does not know how to respond; he is out of his depth. We are talking about the closure of public roads—let us not lose sight of that. The Government has the power to reverse the closure of public inner-Sydney roads as a result of the cross-city tunnel. The Greens and local residents have called consistently for the reversal of these tunnel-induced road closures. This action is needed so that public buses can run on time and the disruption to local businesses and residents can stop. I urge the Premier—if he plans to get his hands dirty on this issue—to talk to people and hear what it is like out there now that this crazy project has gone ahead. There is growing anger in the community that cannot be ignored or avoided. The Greens again call on the Government to initiate immediately meaningful discussions with residents and businesses affected by the cross-city tunnel.

Remember that we still do not know the finer details of the tunnel deal. The Greens will give it another go and continue to call for the release of the contract. We know that the Government will persist in claiming commercial in confidence, but it should remember the basic lesson of public relations: when there is a disaster, admit all problems and then things can only get better. That is why this Government must come clean about what it has signed off on in this contract. Many tunnel documents have been released. In 2003 the Greens were successful in gaining the release of hundreds of documents. But the crucial financial and planning information remains secret. The Government constantly uses the excuses of public interest privilege and legal professional privilege to keep people in the dark. That is why the current situation is so dangerous.

Five times since 2004 government agencies have failed to disclose all documents requested by New South Wales Greens members through the call for papers process. I emphasise that point because those requests related to a range of issues. It is evident that the Government is not abiding by the rules that were put in place following the famous High Court case. Sometimes the documents are held by the government agency and not released and at other times the Government relies on defences at law, including legal professional privilege, commercial in confidence and Cabinet in confidence.

The Hon. Catherine Cusack: And terrorism.

Ms LEE RHIANNON: Yes, that too. Legal advice has shown that the defences are not always claimed validly. The Greens have exposed that as a result of legal advice that we have accessed through Parliament. Many documents are released finally only through the persistence of the Greens and other members of Parliament. The Government is abusing the call for papers process to cover up sensitive documents that have significant public interest value or hiding behind falsely claimed defences at law. Big projects such as the cross-city tunnel and the private construction of public schools and issues such as the state of branch lines in rural New South Wales—all matters about which the Greens have tried to get the Government to release papers—have significant ramifications for the community. A healthy government would not fear public scrutiny, which is the cornerstone of democracy. But this Government does—and that tells us a lot about how it works.

It is unacceptable that the public will be asked to foot the bill for the disaster that is this tunnel. That is how public-private partnerships work. That is how they play out. If a single good thing can come from this deal I hope it will be that people will understand what happens with public-private partnerships: the corporations get the handouts and the public wears the mistakes. As with many public-private projects, in this case the corporation, the cross-city tunnel consortium, will get the profits while the people carry the risks. The tunnel is a massive opportunity cost, draining hundreds of millions of dollars that could have been invested in public transport. The Government must shift its thinking and get behind public transport in a big way. That is the only way to solve the traffic crisis that is gripping this city.

The tunnel is adding to the traffic burden in the inner city, with adverse impacts on pedestrian and cyclist safety, noise and urban amenity. Cross-city tunnel induced street closures are causing huge problems, many of which I heard about today as I stood on William Street. People told me that traffic is building up on Oxford Street and stretching back even to Moore Park. They said it is now difficult to get a taxi. Taxis used to transit the area and pick up passengers en route but with the street closures it is no longer worth the drivers' trouble. We have a big mess on our hands. The Government must get involved. It looks as though the Premier will have to take action because the Minister for Roads is clearly not up to the job. This is a fundamentally bad

deal for the future of Sydney. We need a sustainable, healthy and intelligently planned city. That means looking beyond motorways and exploring public transport options that are integral to this process.

Ms SYLVIA HALE [6.09 p.m.]: I endorse the remarks of my colleague Ms Lee Rhiannon. The Greens welcome this debate about the cross-city tunnel and the underhand deals being done between the Government and private contractors. This is the kind of debate we should have had before, not after, the tunnel was built. Many of the issues being debated today are issues that the Greens have consistently raised over the past decade about tunnel and motorway construction in this State. It has been, unfortunately, a decade of motorway madness that is not yet over. The people of Western Sydney will soon be lumbered with the Los Angeles-style M7, ironically at a time when Los Angeles itself is vowing not to build any more motorways. The Government is still trying to foist the M4 East extension and the Lane Cove tunnel on the people of Sydney. And it is refusing to rule out the possibility of the revived F6 cutting a huge swathe through the Royal National Park or the possibility of the Marrickville truck tunnel whose purpose is to link the now privatised airport to the M4.

The debate that needs to be had now is about the nature of public-private partnerships that the Government enters into to build tunnels. The consortium behind the cross-city tunnel is made up of Cheunge Kong Infrastructure Holdings Ltd [CKI] with a 50 per cent holding, DB Capital Partners with a 30 per cent holding, and Bilfinger Berger BOT GmbH with a 20 per cent holding and it is the investment company of Bilfinger Berger AG. CKI has a history of cosy links with governments. With its 50 per cent stake, CKI is the major shareholder in the cross-city tunnel. The chairman is Li Victor, the eldest son of Hong Kong tycoon and Asia's richest man, Li Ka-shing. Li Ka-shing is the chairman of Hutchison Whampoa, which operates Hutchison's 3G network "3", which is the first 3G network in Australia that was launched by non other than two Labor Premiers, Bob Carr and Steve Bracks, on 15 April 2003.

I suppose what is unique about the cross-city tunnel ownership is that Macquarie Bank does not have its finger in the pie. Macquarie describes itself as the world's largest developer of tollways, but in Australia its projects have been confined solely to New South Wales. It boasts that its portfolio includes the Eastern Distributor, the M2, the M4, the M5 South-west and the M7 Westlink. And now, Macquarie numbers among its tollway and airport acquisitions the former Premier of this State. As today's Australian *Financial Review* notes:

> Macquarie's acquisition of a former politician continues a tradition in the bank. It also employs former federal Liberal Minister Warwick Smith, MP Ross Cameron and, until earlier this year, former Victorian Treasurer Alan Stockdale. It also has a former New Zealand deputy prime minister and a former minister for Britain's Blair government.

Why should anyone worry? We should all worry because the public quite rightly interprets such cosy retirement deals as a reward for past favours or as a way to ensure that large institutions have intimate access to all levels of government. The cross-city tunnel typifies the problems that result from public-private partnerships from cosy secret deals entered into by the Government and major developers, construction companies and finance institutions—all major contributors to both the Australian Labor Party and the Liberal Party. On 10 October 2005 in the *Sydney Morning Herald* Paul Sheehan put his finger on some of these problems and stated:

> And then there's that iceberg, the big picture, the public-private infrastructure model which has built the M2, the M4, the M5, the Eastern Distributor, the Cross City Tunnel and soon the Lane Cove Tunnel, all of which revert to public ownership after 30 years. You might ask, since governments have lower debt costs than private companies, why governments don't build and operate these public assets with public debts? …
>
> Let's not forget what happened to the first major project, the M2, which began operation in May 1997, and cost $650 million to build. Earlier this year, after eight years of operation, the M2's owner, the Hills Motorway Group, sold the tollway to Transurban. The price was $2.07 billion.
>
> That's a tidy $1.42 billion appreciation over the cost price eight years ago. This superb capital gain was based on the secure revenue flow provided by toll-paying motorists, who are already taxpaying voters. To get these deals done, the State Government offers incentives in the form of guaranteed minimum revenue. Each project is unique. Some financial projections are more realistic than others. With the Cross City Tunnel, a target was set at 90,000 cars a day, wildly optimistic …

Paul Sheahan continued:

> The officials who signed off on this vision of building the tunnel and blocking the major artery of William Street and other streets in and around the CBD have all moved on—the former premier Bob Carr, the former lord mayor Frank Sartor, and the former transport minister Carl Scully—leaving the public to pay for this tunnel, one way or another.
> This is how public assets are turned into private banks in NSW.

The problems associated with public-private contracts are numerous. They include: the non-transparent, secret nature of the contracts, which has been referred to frequently in this debate, the essential details of which are kept hidden from the public; contracts skewed towards the interests of the operating consortium rather than the

interests of the public, which is typified with the cross-city tunnel; closure of feeder roads, again exemplified with the cross-city tunnel; contracts that stop public transport competing with the tollway, an example of which is the airport rail link; contract terms that protect the revenue of operators and require the taxpayer to bail them out—the Sydney Harbour Tunnel and the airport rail link; and in relation to the M5-East and the cross-city tunnel, constructions that endanger the very health of the citizens of this city who use the tunnel or live in the vicinity of the stacks or the portals at either end of the M5-East tunnel with air polluted with carbon monoxide and fine particulate carcinogenic matter.

I said it is timely to have this debate but it is unfortunate we are having it in the aftermath of the opening of the tunnel rather than prior to contracts being entered into. The problems that this tunnel represents have been consistently identified by numerous community and other groups over the years. Unfortunately this country seems to have a fetish to adopt policies that are all the go overseas in one way or another but by the time we put them into practice we see that overseas people start to learn from their mistakes. We do not learn from the mistakes overseas, we just copy them blindly, and the cross-city tunnel is a perfect example.

The Hon. PETER BREEN [6.18 p.m.]: This is an unusual motion that raises what I believe is a matter of public importance. I understand there will not be a vote at the end of the debate and so there is no real necessity to take a position one way or another, but this important issue deserves to be articulated. I agree with the Hon. Don Harwin, who said that if St Marys Road were to be further reduced to traffic it would cause extreme chaos. St Marys Road, which runs from College Street down to Woolloomooloo, is permanently blocked at peak hour as a result of the traffic divergence following the opening of the cross-city tunnel. Traffic in Woolloomooloo is also chaotic in the sense that it has been redirected in the entry onto the Cahill Expressway from Woolloomooloo up along Sir John Young Crescent and back towards the entrance to the bridge.

The Hon. John Ryan mentioned proposals to alter traffic flows in Palmer Street and Oxford Street. He will correct me if I am wrong but I do not think he mentioned William Street. When I am not in Lismore I reside in a unit adjacent to William Street. William Street originally had six traffic lanes, three in each direction. It now has five lanes—three coming from the east to the city and two heading east out of the city. Because there is no right turn into Palmer Street for the three lanes coming down the hill from the east, the traffic in William Street actually flows better than ever. That is the first point I would like to make.

The second point is that because there are now five lanes operating in William Street instead of six and there are 20,000 fewer cars as a result of the opening of the cross-city tunnel, traffic on William Street has never been better. That needs to be noted because it is proposed to close an additional lane when the trees are planted, which will mean four lanes operating in William Street. The real question is what happens with those four lanes. Provided they are open to traffic in each direction and we do not have dedicated bus lanes, for example, I believe traffic in William Street will operate efficiently and will prove to be very successful. As a result we will have fewer cars and less pollution in the central business district [CBD]. I am surprised to see the Greens opposed to the motion and speaking so vehemently against the cross-city tunnel when ultimately it will reduce traffic and pollution in the CBD.

Ms Lee Rhiannon indicated she had spoken to people in the area and mentioned Peter Carroll, who is a businessman in William Street. I have been into his store many times and apart from Mr Carroll and his dog I have never seen anybody else working in the store. His dog is there for security, as a matter of interest. I do not know what impact the cross-city tunnel would have had on his business or any other businesses in William Street except to the extent that it is no longer possible to park in William Street. I agree this is a problem for shopkeepers and businesses generally, but most of the big businesses in William Street are up-market car dealerships that have their own entry into their premises.

The Hon. Melinda Pavey: Don't worry about the little guys.

The Hon. PETER BREEN: There are not many little guys there. That is the reality of William Street. Another point is that the co-ordination of the lights is now better in William Street. You can cross William Street much more easily than you ever could. There is no bank-up of traffic in College Street. I was there at 4.15 this afternoon. There is a problem from Woolloomooloo to the cathedral and there are problems in Palmer Street, but apart from one lane in William Street I am not aware of any other road closures at this stage. I know there are proposals to close roads, but we will not know what the impact will be until those proposals are implemented. Hopefully at that stage more people will be using the cross-city tunnel.

It is certainly a matter of concern that only 20,000 cars are using it when the projected figure was 90,000. It seems obvious to me that the cost of the toll is the problem. The toll should be reduced as an

experiment to see what difference it makes. From my point of view, as someone who spends some time in William Street, the proposal seems to be working—20,000 fewer cars on the streets in the CBD is a good development for people who live in the area. If that figure goes from 20,000 to 90,000 it will make William Street and the area around Darlinghurst very pleasant as a result of there being fewer cars.

The Hon. MELINDA PAVEY [6.23 p.m.], in reply: I thank all members for their contributions and their interest in this issue, which is impacting on the lives of people in Sydney, and particularly the inner suburbs of Sydney. I would like to respond to some of the points made by honourable members. The Hon. Peter Breen's suggestion that there are 20,000 fewer cars in Sydney as a result of the cross-city tunnel is not quite right.

The Hon. Peter Breen: I think I said in the CBD.

The Hon. MELINDA PAVEY: Those cars would not necessarily have gone to the CBD. The problem for many people wanting to access and use the CBD is that they cannot get into the CBD. A lot of the cars are still going to the CBD but the tunnel is providing a service from the eastern suburbs to the inner west and vice versa. The Hon. Greg Pearce made some very valuable points. He raised some very interesting aspects in relation to the contract and the many unanswered questions that led to this matter being put before the House. It has forced the Government to reveal information that it had been keeping from the public and not talking about. The public was on to the Government

The public knew there were contractual arrangements and agreements that had forced the Government to close lanes in William Street, stop right turn access to Palmer Street, install traffic calming measures in Oxford Street, and all the other barriers that have been put around the CBD and its environs to funnel traffic into the tunnel. The debate has been useful in shedding some light on the arrangements. The Hon. John Della Bosca tried to relieve our concerns by saying the money was all for work that was carried out, but that was quite well discounted by the Hon. Greg Pearce. GST is not paid on actual work, it is paid on a fee. The Government has received an enormous amount of money as reimbursement. The $98 million paid by the consortium was a fee; it was not generally reimbursement of expenses. That is a very good point.

Another question is how the consortium was given projections that were plainly so wrong. That matter will be tied up in the courts into the future. The consortium developed this tunnel on figures that were wrong. Let us say a lot of people do not like using the tunnel because of the cost—at $3.56 it is very expensive. When I went through the tunnel recently I had to pay over $5 because I was not registered with the company for a pass. Let us say that price is not an issue for 50 per cent of people. You have to look at the other 50 per cent. If 45,000 people were supposed to be using the tunnel someone has got their figures extraordinarily wrong. It will be very interesting to follow this. There clearly has been an absolute breakdown in communication between Minister Joe Tripodi and the consortium.

The Hon. Catherine Cusack: And the motorists.

The Hon. MELINDA PAVEY: And definitely with the people of Sydney, who are very cross about what has happened. Most importantly, there must be discussion, negotiation and co-operation between the parties to resolve this issue. Minister Tripodi has been dropped in a huge mess from a great height and unfortunately does not have the ability or the strength of character to get the Government out of this mess.

Minister Joe Tripodi was not around the big Cabinet table when the contract was signed. The mess that we are now in is not Joe Tripodi's fault. Ms Lee Rhiannon quite rightly pointed out that, although he was not responsible for the mess that we are now in, he is incapable of getting everyone out of the mess that Carl Scully put us in. This is probably the first big test for the Premier, although some might say it is his second big test. After all, he has not been able to outline to the people of New South Wales the true budget position. Now he has failed in his responsibility to find a solution for the small business people in William Street who are affected by the cross-city tunnel. I acknowledge that there are also some very big businesses in William Street. Businesses, be they pubs or cafes, are affected if they cannot receive deliveries—and as a result proprietors are unable to pay rent and other associated business costs. Not only are motorists affected by traffic congestion and access to the CBD. Motorists have said that they would like to use the cross-city tunnel much more often.

The Hon. Amanda Fazio: How do you know?

The Hon. MELINDA PAVEY: Because I talk to people outside my political circles. I talk to people all the time. One only has to listen to concerns expressed by callers on talkback radio and read letters to newspaper editors.

The Hon. Amanda Fazio: So it is policy by talkback. Now we know.

The Hon. MELINDA PAVEY: The Hon. Amanda Fazio would know all about policy by talkback. This is a disastrous situation. I acknowledge the contributions of the Hon. John Ryan, the Hon. Don Harwin, the Hon. Greg Pearce and Reverend the Hon. Fred Nile. I thank all members for their consideration of this matter, which is of urgent concern to the people of New South Wales.

Motion lapsed.

[*The Deputy-President (The Hon. Patricia Forsythe) left the chair at 6.35 p.m. The House resumed at 8.00 p.m.*]

SECURITY INTERESTS IN GOODS BILL

Second Reading

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [8.00 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Bills of Sale Act 1898 and the Liens on Crops and Wool and Stock Mortgages Act 1898 are two of the oldest statutes still in use in NSW.

Both Acts deal with loans that are advanced by using goods as security.

The first Act is applicable to loans over personal property, such as the stock in trade of a business or a personal art collection, whilst the second Act deals with agricultural goods such as stock, a growing crop, or wool still on the sheep's back..

The Security Interests in Goods Bill will repeal both Acts and replace them with one combined piece of legislation.

This new legislation contains a number of substantial improvements, which will ensure that these types of financial instruments continue to evolve with the modern financial marketplace.

The Security Interests in Goods Bill introduces the concept of a security interest which can be created over goods to secure the payment of a debt or other pecuniary obligation.

The bill makes a distinction between security interests granted over goods generally, and those granted over agricultural goods.

In outlining some of the substantive changes introduced, I will look at these two types of securities separately, starting with securities over agricultural goods.

The Liens on Crops and Wool and Stock Mortgages Act was originally introduced to validate securities granted over assets such as wool and crops.

At common law, it is not possible to grant a mortgage over property not yet in existence.

A farmer looking to raise money to plant a crop or maintain a flock of sheep will need to secure a loan before the asset has yet been produced.

This is a problem still faced by farmers today and explains the need for this legislation.

The Security Interests in Goods Bill replaces crop liens, wool liens and stock mortgages with a new security instrument known as an "agricultural goods mortgage".

The bill identifies three different types of agricultural goods mortgages, each with its own specific characteristics.

The three mortgages are:-

- A crop mortgage;
- A stock mortgage (which may also include a wool mortgage); and
- An aquaculture fish mortgage.

Traditionally, crop mortgages have been used primarily for crops of grain and cereal, such as wheat, barley and rice.

These types of crops are annual products and consequently a crop lien has always been limited to a term of one year.

However, given the diversification in modern agriculture, the new Bill will expand the time frame for crop mortgages to a maximum of 5 years, so that the cultivation of non-traditional crops, such as olives, can be undertaken.

The new provisions will make it clear that, in addition to a landowner, a person who has exclusive possession of land or the holder of a Western Lands lease may also grant a valid crop mortgage.

New provisions have also been included in the Bill to address the needs of sharefarmers.

A sharefarmer will be able to grant a valid crop mortgage, but only with the written consent of the owner or lessee of the land.

The legislation also deals with the entitlement to profits derived from crops that are subject to both a crop mortgage and a sharefarming agreement.

In this regard, the right of a sharefarmer will have priority over the security interest of the mortgagee unless the sharefarmer is a party to the mortgage.

Two provisions of the present legislation will be carried forward in the new Act.

The first of these will require a mortgagee under a crop mortgage over land that is mortgaged to another person, to pay to that person a certain amount of interest due under the land mortgage, before exercising a power of sale over the crops.

The second provision will require a mortgagee under a crop mortgage over land, which is subject to a lease, to pay the lessor a certain amount of rent due under the lease, before exercising a power of sale over the crops.

Substantial amendments have been made in the area of stock mortgages.

At present, a stock mortgage can only be granted in respect of sheep, cattle or horses.

The Bill gives the term "stock" a much wider definition.

Some of the more exotic species of animals, such as ostriches, llamas and alpacas have been added to the present definition, along with more traditional species, such as goats, swine and poultry.

A stock mortgage may be granted over stock, or it may be granted just over the wool produced by the stock.

It will also be possible for a stock mortgage to cover both the stock and the wool.

Where a stock mortgage relates only to wool it can be referred to as a wool mortgage.

The definition of "wool" has also been expanded to mean the natural fibre from the fleece of sheep, goats, alpacas, llamas or any other kind of stock producing fleece that can be shorn.

The expanded definition will allow more farmers to use this type of security in the course of their businesses.

Unless a stock mortgage expressly provides otherwise, it will extend to any progeny of the stock, any sperm and embryos of the stock, and to any stock of the kind identified in the mortgage that is acquired after the mortgage is granted.

Under proposed section 12 (4) of the new legislation, stock that are mortgaged may be described in the mortgage by reference to the number of stock and the brand, earmark or other mark on them, or in another way that reasonably allows the stock to be identified.

During the consultation process on the Bill, the NSW Farmers' Association suggested that there was a need for a mortgage over farmed fish.

The proposal has been adopted and, as the particular features of a stock mortgage were not all relevant to fish, a new category of mortgage has been introduced for use by farmers engaged in the cultivation of fish.

This type of security instrument will be known as an aquaculture fish mortgage.

The definition of fish is to have the same meaning as is used in the Fisheries Management Act 1994.

This definition includes not only marine, estuarine or freshwater fish but also other aquatic animal life such as oysters and crustaceans and even some types of beachworms.

An aquaculture fish mortgage can, however, only be granted in respect of fish cultivated, kept and harvested by a person with a view to sale.

It will not apply to wild caught fish or to fish kept in a pet shop.

The fish that are comprised in an aquaculture fish mortgage may be described by reference to the species of fish, or in another way that reasonably allows the fish to be identified.

Proposed section 17 and Schedules 1-3 of the new Act set out the essential elements of a crop, stock and aquaculture fish mortgage, as a guide to the preparation of these instruments.

Changes may be made to the Schedules by regulation.

Various provisions of the proposed legislation will extend the period for the compulsory registration of "agricultural goods mortgages" to 45 days instead of the present 30 days.

Proposed sections 8, 14 and 16 will confer rights and remedies on mortgagees in the event of a default under an agricultural goods mortgage.

An agricultural goods mortgage will not be extinguished or otherwise prejudicially affected by the death, bankruptcy or insolvency of the mortgagor; or the sale of, or the creation of a mortgage or other encumbrance over, the goods or land, or water source to which the mortgage relates.

However, this provision is subject to the Commonwealth Bankruptcy and Corporations law protecting secured creditors.

Proposed sections 20-22 will allow the variation, renewal and assignment of agricultural goods mortgages.

Under proposed section 32, it will be an offence for a mortgagor of an agricultural goods mortgage—or an agent of the mortgagor—to do certain things that defeat, destroy or prejudice the security interest created by the mortgage, unless the mortgagor or person has a reasonable excuse for doing so.

The maximum sanction for the offence is 100 penalty units or imprisonment for 2 years, or both.

The final aspect of agricultural goods mortgages that I need to address is the interaction of the present Bill with the Commonwealth Corporations Act 2001.

Because the Commonwealth has exclusive powers in regard to corporations, any charges that are granted by companies as stock mortgages, or liens on crops or wool, must be registered under Part 2K of the Corporations Act rather than the New South Wales legislation.

This state of affairs is to continue under the proposed legislation, and arrangements have been made with Commonwealth officials to ensure that they have appropriate regulations in place at the commencement of the Security Interests in Goods Act.

I shall now deal with mortgages granted over non-agricultural goods.

A mortgage of chattels, traditionally known as "a bill of sale", has always taken the form of an absolute transfer of the goods mortgaged, with a provision allowing for the re-transfer of the goods upon repayment of the debt.

The bill of sale would also have contained a provision allowing the borrower to retain possession of the goods, despite their complete legal transfer to the lender.

The first Act passed relating to bills of sale in New South Wales was called "an Act for preventing Frauds upon Creditors by secret Bills of Sale of personal Chattels."

The aim of the Act was to prevent borrowers from holding themselves out as prosperous, when in reality all of their possessions had been transferred or mortgaged to another.

For this reason the Act did little to facilitate financial transactions, and instead imposed an overly prescriptive and cumbersome regime on those looking to borrow money on the security of goods.

A further problem with the Bills of Sale Act is that it requires instruments to be registered within strict time frames and imposes elaborate procedures for signing the documents.

When a Discussion Paper was circulated outlining proposals for reform of the law on bills of sale, there were some respondents who suggested that the legislation should be repealed completely.

Both Victoria and South Australia have repealed their equivalent legislation.

Most respondents, however, saw the benefits of retaining a Register in which bills of sale and other security interests in goods could be recorded.

It was therefore decided to preserve the bills of sale Register, but remove as much of the formality as possible.

The Bills of Sale Act makes a distinction between two different types of bills: those given by traders, known as "trader's bills of sale" and all other bills, commonly known as "ordinary bills of sale".

With greater consumer protection provided by alternative legislative means, and more sophistication in the commercial financial market place, there is no longer a need to treat bills of sale differently, whether they are granted by a trader or an individual.

The proposed legislation will thus do away with the artificial distinction between traders and ordinary bills of sale, greatly simplifying procedures in the process.

The term "bill of sale" itself will be replaced with the more up-to-date concept of "security interest in goods".

A security interest in relation to goods will be defined as being "an interest reserved or otherwise created over goods by way of security for the payment of a debt".

A security interest may be created under a bill of sale, mortgage, trust or power.

The definition of "goods" will remain largely unchanged.

"Goods" means personal chattels, fixtures or other things capable of complete transfer by delivery, whether immediately or at any future time.

By this definition "goods" can include goods to be acquired by the borrower after creation of the security interest, provided that the goods have been adequately described in the security instrument.

The current legislation requires that all bills of sale be registered.

However, under the new Bill the registration of security interests in goods will be optional, except in the case of "agricultural goods".

The benefit of registration will be priority.

A registered security interest in goods will generally have priority over unregistered security interests over the same goods, and will rank in priority ahead of security interests registered subsequently.

By using the Register to ensure priority, lenders will be encouraged to register their interests, rather than being compelled to do so.

A security interest that is not registered, either deliberately or through inadvertence, will not be rendered invalid under the new legislation.

A bill of sale registered under the current legislation must be renewed every 5 years to retain its validity against certain third parties.

The banking sector has advised that loans made to small business typically have a 10 year term, making the requirement to renew every 5 years an unnecessary impost.

Under the proposed legislation the period of registration will not be limited and there will be no need to renew it.

The Security Interests in Goods Bill also makes provision for the registration of a variety of transactions that affect a security interest.

For example, it will be possible to register a variation, assignment or discharge of a registered security interest.

The proposed Act will not interfere with the current system for registration of security interests in motor vehicles and boats.

The Office of Fair Trading will continue to operate the Register of Encumbered Vehicles (REVS) which provides a central system enabling car buyers to check, not only whether a car is encumbered but whether it has been reported as stolen or recorded as de-registered.

Security interests registered under the proposed Security Interests in Goods Act will be recorded in the General Register of Deeds kept by the Registrar-General.

Searches of the General Register are not currently available on-line and are required to be made by attending the Office of the Registrar-General.

However, as part of the current reforms, the Registrar-General will make searches in respect of security interests in goods available electronically, via the internet.

The reforms being made by this Bill are clearly significant.

Some of these reforms have been put forward by the registration and legal staff in the Registrar-General's Office.

Others have come from various interest groups and individuals, such as the Rural Issues and Property Law Committees of the Law Society of New South Wales, Rachael King and Joe Sullivan of the NSW Farmers' Association, John Snell of the Westpac Banking Corporation and L E Taylor of the Commonwealth Bank.

The contribution made by these, and others who furnished written submissions to the Registrar-General, have proved to be invaluable.

Finally, I must thank the Parliamentary Counsel for updating the legislation and providing a clear explanation of its terms.

I commend the Bill to the House.

The Hon. RICK COLLESS [8.01 p.m.]: The Opposition does not oppose the Security Interests in Goods Bill, which will replace the Liens on Crops and Wool and Stock Mortgages Act 1898 and the Bills of Sale Act 1898—legislation that deals with loans and advances by using goods as security. These Acts are two of the oldest statutes still in use in New South Wales. The bill has in-principle support from stakeholder groups including the New South Wales Farmers Association and local law firms. However, I have been advised that the

Law Society of New South Wales detailed significant concerns about the bill in November 2004, and considerable consultation took place between the Law Society and the Department of Lands in relation to it over a period of time. The Law Society's Property Law Committee and Rural Issues Committee made a submission, and the majority of the recommendations have been incorporated in the bill. The New South Wales Farmers Association supports the broadening of options contained in the bill because it enables various forms of primary production to be used as security within a financial context.

The bill will extend the allowable period for a crop mortgage from one year to five years, allow for the creation of mortgages over existing and future crops in wool, and widen the definition of "stock" to permit a stock mortgage to be granted in respect of not only sheep, cattle and horses but also goats, swine, poultry and other animals. It also permits a mortgage to be granted over the wool of sheep, and the fleece of goats, alpacas, llamas and any other kind of stock that produces a fleece that can be shorn. It will also permit a person to grant an aquaculture fish mortgage over farmed fish, and extend the period for the compulsory registration of goods and mortgages—mortgages of crop, stock, wool and fish—to 45 days instead of the current 30 days. It will introduce the concept of security interests in goods, which will include bills of sale and other types of chattels and mortgages, and provide facilities for registration, but make registration optional rather than mandatory for all security interests in goods other than agricultural goods mortgages. It will provide registration interests over the same goods, but failure to register an otherwise valid interest will not affect its validity.

The Coalition does not oppose the legislation that establishes the concept of a security interest. This can be created over goods to secure the payment of a debt or other pecuniary obligation. A distinction is made between the security interests granted over general goods and those granted over agricultural goods. Crop liens, wool liens and stock mortgages are replaced with agricultural goods mortgages, and as previously mentioned the three mortgages will be crop, stock—which also includes a wool mortgage—and, importantly, a new category of aquaculture. The bill also allows for new provisions to address the needs of share farmers. It widens the type of asset that can be used as security for a mortgage, and allows for goods that are yet to come into existence to be used as security for a loan, for example wool while it is still on the sheep but not yet grown.

There have been numerous instances of farmers attempting to raise funds that could not be secured because the loan, as an asset—the security—has not yet come into existence. We acknowledge that this is a worthwhile change to the process. There has been strong support for broadening the options of primary production to be used as security for a loan. Through an expansion of the definition of "stock" the bill will enable a mortgage to be granted against a much wider cross-section of animals. This recognises the ever-increasing diverse nature of agriculture, as well as the growing importance of some industries connected to stock within rural New South Wales. Likewise, the increase in the period for crop liens recognises the diverse range of crops that are grown as well as the variance in crop establishment periods. The definition of "wool" has been expanded to mean the natural fibre from the fleece of sheep, goats, alpacas, llamas or any kind of stock producing fleece that can be shorn.

"Stock mortgage", unless otherwise stated, extends to any offspring of the stock, any sperm and embryos of the stock, and any stock of the kind identified in a mortgage. Under the aquaculture fish mortgage, the definition of "fish" has the same meaning as is incorporated in the Fisheries Management Act 1994. The definition includes marine, estuarine or freshwater fish and other aquatic animal life such as oysters and crustaceans, and some types of beachworms. This mortgage will not apply to wild caught fish or fish kept in a pet shop. The bills of sale register is retained in the legislation, but its formality has been removed. The two Acts that the bill is replacing are more than 100 years old. Consequently, it certainly is time the legislation was updated. As the shadow Minister pointed out in another place, "We hope that the paperwork that emanates from the legislation reflects the intent of the bill, which is to simplify an important management process for farmers." The Opposition does not oppose the Security Interests in Goods Bill.

Ms SYLVIA HALE [8.08 p.m.]: The Greens support this straightforward bill, which will modernise the very old Bills of Sale Act 1898 and the Liens on Crops and Wool and Stock Mortgages Act 1898 and merge them into one bill. It replaces "bills of sale" with the term "security interest in goods". The bill will allow farmers to secure a loan on as yet unproduced assets by creating an agricultural goods mortgage. The definition of "stock mortgage" widens the definition of "stock" to include animals such as llamas and alpacas.

The bill expands the definition of "wool" to cover any hair that has been shorn from, for example, goats and llamas as well as sheep. The increase in the period for crop liens recognises the diverse range of crops that are grown as well as the variation in crop establishment periods. The bill creates an aquaculture mortgage for fish farms. The definition of "fish" includes crustaceans and even beach worms, provided that they are cultivated for sale. The definition, however, does not encompass wild fish.

The bill will modernise the way that information about security interests is stored and accessed. Members of the public will be able to search online registered agreements relating to the security of interest in goods. The Greens note that the reforms have the support of the Law Society of New South Wales, the New South Wales Farmers Association and the banking sector. The bill recognises the increasingly diverse nature of agriculture and brings the law up to date by modernising and amalgamating the content of the two Acts to which I have referred.

The Hon. GREG PEARCE [8.11 p.m.]: My colleague the Hon. Rick Colless has already spoken in this debate, so my brief comments relate only to the good fortune I experienced running into the Liens on Crops and Wool and Stock Mortgages Act 1898 and the Bills of Sale Act 1898 during the long period I practised as a solicitor. I must say that, as a young solicitor at that time, that was quite a terrifying experience. However, on this occasion the Opposition supports the Government in its introduction of twenty-first century legislation.

The Hon. Rick Colless: Which is two millenniums on.

The Hon. GREG PEARCE: Yes. Two millenniums on, importantly this legislation will broaden the category of asset that can be used as security for a mortgage and allows for goods that are yet to come into existence to be used as security for a loan. The bill recognises the reality of business in the country and certainly makes good sense. I will not deal with the provisions of the bill in detail. Suffice it to say that the Opposition supports the legislation.

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [8.12 p.m.], in reply: I thank all honourable members who participated in the debate for their support for the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PROPERTY LEGISLATION AMENDMENT BILL

Second Reading

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [8.14 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

This Bill contains a number of amendments to the Real Property Act 1900, the Conveyancing Act 1919, the Strata Schemes (Freehold Development) Act 1973, the Strata Schemes (Leasehold Development) Act 1986 and the Local Government Act 1993.

The amendments are aimed at remedying a number of problems which have been identified in practice and are the result of an ongoing process of review of the various Acts. I will not speak in detail about all of the amendments, as some are minor changes by way of statute law revision. I will, however, outline some of the more important matters covered by the Bill.

This Bill deals with a number of technical legal matters relating to the law governing real property and conveyancing practice. An explanation of them necessarily involves some legal terminology, so I ask for some forbearance on the part of Honourable Members in this regard.

The first item in this Bill amends the Real Property Act to require that an application to remove a caution from qualified and limited title be accompanied by a survey report.

In order to explain the meaning of "qualified title" I need to firstly discuss the difference between Torrens title and Old System title.

Old System title is the system we inherited from English law. It requires a chain of deeds to prove title to the land. It is cumbersome and is not guaranteed by the State.

Torrens title is simple—a single document, called a Certificate of Title, establishes a person's entitlement to the land and is guaranteed correct by the State of NSW.

"Qualified title" was introduced in 1967 to help speed up the conversion of Old System title land to Torrens title. Think of qualified title as a 'half way house' between Old System title and full, State guaranteed Torrens title. A qualified title has a single Certificate of Title but it is not guaranteed. It contains a "caution" warning that the title may be subject to other interests not shown on the register. This caution will stay on the title for up to 12 years. Once a caution is removed, the title becomes a full, State guaranteed Torrens title.

"Limited title" is created when land is converted from Old System title, but the boundaries of the block of land have not been properly surveyed, so that the boundaries cannot be adequately defined to the satisfaction of the Registrar-General. A "limitation" can only be removed by lodgement of a deposited plan of survey. A title can be both qualified and limited.

A problem arises where a caution is removed from a qualified and limited title before the time period of 12 years has elapsed. An adjoining owner may have a right to claim part of the land by adverse possession because of the position of fences or other structures. If a caution is removed, an adjoining owner could lose any rights they may have to make a claim by adverse possession along the boundaries.

In order to protect any interest an adjoining land owner may have, the amendment contained in this Bill will require the lodgement of a survey report and an identification survey, prepared by a registered surveyor, when an application is made to remove a caution from a qualified and limited folio of the Register. The survey will show if there are any encroachments or occupations which might give an adjoining owner any rights over the land.

The next item amends the Real Property Act to permit the Registrar General to record on title a note of any licences and permits affecting associated Crown land.

The Crown Lands Act 1989 provides for the creation of licences and enclosure permits over Crown land. These rights may authorise the use or occupation of Crown land for a particular purpose, for example, cultivation or for grazing sheep and cattle, or perhaps for a jetty.

In many instances, these licences and enclosure permits are held by the owner of adjoining Torrens title freehold properties. However, when these freehold properties are sold, the related licences and permits are not always identified in the conveyancing process and an incoming owner may not be aware of their existence.

This failure to identify the Crown holding can lead to problems for both the former owner and the incoming purchaser, with the Department of Lands endeavouring to recover the rental and any arrears.

This amendment will authorise the Registrar General to make a note in the relevant folio of the Torrens register for freehold land drawing attention to any associated Crown holdings. This will ensure they are not overlooked when the freehold land is transferred.

The next item I want to highlight is an amendment to the Real Property Act and the Conveyancing Act to allow owners of land to create an easement, restriction on use or profit à prendre over their own land by use of a simple document, without the need for an expensive plan of survey.

By way of explanation, an easement is the right for the owner of one block of land to do something on another block of land. For example, a right of carriageway entitles a person to drive over someone else's land. A restriction on the use of land is a covenant by one owner to refrain from doing something on their land—for example, not to build a house of a particular material or height. A profit à prendre is a right to remove something from another block of land—for example, timber or sand.

At common law a person could not create these rights over their own land. This meant that if a person wanted to subdivide land and sell off blocks with easements, for example, then the easements had to be created each time a block was sold. This was cumbersome.

To overcome this problem, in 1964 the Conveyancing Act was amended to allow a person to create easements and restrictions over their own land, but only by registration of a deposited plan of survey. This system has proven to be very successful. It allows a subdivider to create all necessary easements, covenants or profits a prendre at once in a single document, prior to the sale of any of the blocks.

However, having a plan of survey prepared by a surveyor can be very expensive and may not be necessary in every case.

Under the proposed scheme, the Registrar General will have a discretion to allow a land owner, in a suitable case, to create an easement, restriction on use or profit à prendre by a simple document, such as a Transfer, without having to go to the expense of preparing a full plan of survey. It will be sufficient to annex to the Transfer a much simpler plan called a "compiled plan".

The new facility will provide a cheaper and simpler alternative for the creation of easements, covenants and profits a prendre. Giving the Registrar General a discretion to allow this method in suitable cases, while retaining the ability to insist on a full plan of survey where needed, will ensure that the integrity of the Torrens Register will not be compromised.

The next amendment introduces a new section 55B into the Real Property Act to allow a simpler way of dealing with common law leases recorded on a Torrens title.

If old system land is subject to a common law lease at the time the land is converted to Torrens title, the lease is recorded in the Torrens Register. However, if that lease is transferred, for example, then at present the transfer must be done by old system deed. This is usually more expensive than Torrens dealing.

This amendment will simplify the procedure and reduce conveyancing costs by allowing a common law lease to be dealt with by a simple Torrens dealing form under the Real Property Act.

The next amendments concern two minor problems with the Strata Schemes (Freehold Development) Act and Strata Schemes (Leasehold Development) Act.

The first problem is that there is presently some doubt as to whether a lease of common property in a strata scheme can be varied.

To remove this doubt section 25 of the Strata Schemes (Freehold Development) Act and section 29 of the Strata Schemes (Leasehold Development) Act will be amended to specifically allow for the variation of a lease or sublease of common property in a freehold strata scheme or a leasehold strata scheme.

The second problem is the potential for by-laws to be passed that could enable proprietors in a strata scheme to avoid their obligations under a strata management statement.

Sometimes a single building might contain more than one strata scheme—for example, one strata scheme for residences and a separate strata scheme for shops.

A strata management statement is a contract between the two strata schemes which sets out obligations regarding contributions for maintaining the building.

The bill amends section 28W (5) of the Strata Schemes (Freehold Development) Act and section 57F (5) of the Strata Schemes (Leasehold Development) Act to ensure that by-laws cannot be passed by one strata scheme which override the obligations in a strata management statement.

This Bill also amends the Local Government Act to simplify the way in which a person may transfer a parcel of land to a local Council for the purpose of dedicating it as a public reserve or drainage reserve. At present this can only be done by registration of a plan.

The Department of Lands has received representations that the law on this point should be amended, because the requirement for a plan is sometimes an unnecessary and expensive imposition on land owners and developers.

After consultation with other government agencies, this proposal has been accepted. The amendment will allow a land owner to transfer land to a local Council, for the purpose of public reserve or drainage reserve, by way of a simple Transfer or conveyance, without the need for a plan. It will provide a simple and cost effective alternative for land owners and developers.

The Bill also contains a number of minor amendments of a statue law revision nature, and I do not propose to deal with them in any detail.

Although not lengthy, this Bill contains a variety of worthwhile measures which will improve the efficiency of conveyancing and reduce costs in a number of areas.

I commend the Bill.

The Hon. RICK COLLESS [8.14 p.m.]: The Opposition does not oppose the Property Legislation Amendment Bill, the object of which is to make miscellaneous amendments to the law relating to real property. The legislation that will be amended includes the Conveyancing Act 1919, the Real Property Act 1900, the Strata Schemes (Freehold Development) Act 1973, the Strata Schemes (Leasehold Development) Act 1986 and the Local Government Act 1993. The amending provisions of the bill are designed to remedy a number of problems that have been identified in practice. The bill is the result of an ongoing process of reviewing the Acts to which I have referred.

The bill will amend the Real Property Act 1900 to require the boundaries of land to be adequately defined before an ordinary folio of the register kept in pursuance of the Act, which is otherwise known as the register, is created for the land instead of a qualified folio. The proposed amendments also will require the Registrar General to have regard to a survey report and an identification survey before cancelling a caution on a qualified folio after receipt of an official title search under the Conveyancing Act 1919. The bill will authorise the Registrar General to record a note in the folio of the register to indicate that land has the benefit of a permit to enclose a road or watercourse, or a licence authorising the use or occupation of Crown land granted under the Crown Land Act 1989, or a permissive occupancy granted over that Crown land.

The bill will enable the creation of easements, profits à prendre and restrictions on the use of land that will affect only land that is subject to the provisions of the Real Property Act 1900, otherwise than by the registration of an instrument under section 88B of the Conveyancing Act 1919, when the same person will be the proprietor of the parcels burdened and benefited by the creation of easements, profits à prendre and restrictions. The bill also provides for the recording in the register of dealings that affect a common law lease that is recorded as an encumbrance on the register, and will amend the Conveyancing Act 1919 to remove a reference to a general order for the setting of costs, which is no longer provided for by that Act.

The bill amends the Strata Schemes (Freehold Development) Act 1973 and the Strata Schemes (Leasehold Development) Act 1986 to make it clear that a by-law cannot be made under either Act to allow proprietors in a strata scheme to avoid any of their responsibilities under a strata management statement. The

bill amends the Local Government Act 1993 to provide for the dedication and vesting of land in a council as public reserve and the vesting of land in a council as a drainage reserve on the registration of a transfer or conveyance of the land to that council for that purpose. That may presently be effected by the registration of a plan of subdivision that identifies land as a public reserve or drainage reserve.

Finally, the bill makes a number of minor amendments to the Real Property Act 1900 that are consequential upon other amendments. It also repeals an archaic and redundant provision and makes other minor amendments by way of statute law resolution. As I indicated in my opening remarks, the Opposition does not oppose the bill. The amending provisions of it largely provide for sensible changes that will improve the efficiency of conveyancing and reduce costs in a number of areas.

Ms SYLVIA HALE [8.18 p.m.]: The Greens support the bill, which deals with a number of identified problems in the Real Property Act 1900, the Conveyancing Act 1919, the Strata Schemes (Freehold Development) Act 1973, the Strata Schemes (Leasehold Development) Act 1986 and the Local Government Act 1993. The bill's amending provisions will change the current law that governs real property and conveyancing practice. The bill will require that an application made to remove a caution from qualified and limited title be accompanied by a survey report. This will deal with a caution being removed from a qualified and limited title before 12 years has elapsed that would result in an adjoining owner losing the right to make a claim by adverse possession in relation to the boundaries. This amendment requires the lodgment of a survey report and an identification survey when an application is made to remove a caution from a qualified and limited folio of the register.

The bill will also permit the Registrar General to record on a title a notice of any licences or permits that affect Crown land, such as an enclosure permit, licence or permissive occupancy. These uses will be noted in the relevant folio of the Torrens register. The bill will also allow for the creation of easements, restrictions of use or profits à prendre over a parcel of land without needing to perform a plan of survey. This is to overcome the need to produce a survey every time a block of land is subdivided and sold. Under this proposal, the Registrar General will have the discretion to allow a landowner to create an easement, restriction of use, or profit à prendre without having to pay for a full plan of survey. It proposes the use of a compiled plan as an alternative.

Another amendment introduces a new section into the Real Property Act to simplify dealing with common law titles recorded on a Torrens title. The amendments affecting strata schemes are concerned with clearing up the uncertainty about whether the lease of a common property in a strata scheme can be varied. The amendments will make it explicit that a variation of a lease or sublease can occur where common property is involved. Another amendment prevents proprietors in a strata scheme from avoiding their obligations under a strata management statement by amending the by-laws.

The bill amends also the Local Government Act to make it easier for a person wishing to transfer a parcel of land for use as a public reserve or drainage reserve. The requirement for registration of a plan will be removed. Landowners will be able to transfer land via simple transfer or conveyance instead. As a side issue, it may be time for the Government to look at how the Land Titles Office operates. If members have not been to the Land Titles Office, I suggest they go. The place is somewhat antiquated, or dickensian, in its operation. Certain documents are available only in hard copy at the Land Titles Office. It is difficult to undertake a search by name. A title search is an unnecessarily complicated process involving finding the lot number, queuing at a counter, buying a ticket, and waiting for a document to appear in a particular pigeonhole. Surely the public should have free, unfettered access online to all land titles. Old title documents should be scanned and be accessible from anywhere in New South Wales. Searches should be able to be done by street address, surname, or company name. Who owns what should be public knowledge.

The Hon. GREG PEARCE [8.22 p.m.]: The amendments in the Property Legislation Amendment Bill largely make sensible changes that will improve the efficiency of conveyancing and reduce costs in a number of areas. The Opposition supports the Government in making those changes. As a solicitor for 24 years, and a partner in a leading law firm, I had the experience of dealing with the Land Titles Office over many years, although not on a day-to-day basis. I endorse the comments of Ms Sylvia Hale, that going to the Land Titles Office and undertaking searches can be quite time-consuming and frustrating. I certainly found that when I was conducting some research on the pecuniary interests of our good friend the Hon. Eddie Obeid and his companies.

Ms Sylvia Hale: I found that with Barry Cotter.

The Hon. GREG PEARCE: Ms Sylvia Hale had the same experience with Barry Cotter.

Ms Sylvia Hale: There is a family with that name, but not "the" Barry Cotter.

The Hon. GREG PEARCE: The member could have spent a fortune researching the wrong Barry Cotter. Where is the Minister for Finance when he is needed? He could have taken advantage of Ms Sylvia Hale being diverted and spending her money on searching for the wrong Barry Cotter. The objects of the bill are to make miscellaneous amendments to the law relating to real property. I have made a few flippant comments about the Land Titles Office, however, I must say that New South Wales land title and strata title systems are amongst the most efficient and effective in the world. When one reads the history of the Torrens system, which was developed in South Australia, one learns that Australia is in a fairly unique position with land titles. I have been involved in a couple of projects funded by international bodies. One such project involved exporting our land titles system to Vietnam and Cambodia. Australia has been at the forefront in exporting its land titles system to a number of Pacific islands that needed to establish new methods of determining land ownership and title.

The bill amends a number of Acts: the Conveyancing Act 1919, which is not as old as its date implies; the Real Property Act 1900, which has been amended a number of times; the Strata Schemes (Freehold Development) Act 1973; the Strata Schemes (Leasehold Development) Act; and the Local Government Act 1993. Although New South Wales has a very good system of land titles, and the Government is slowly improving some of the technical requirements to ensure that costs are reduced to some extent, it is probably time to revise all the relevant Acts and endeavour to eliminate the technicalities in a sustained way.

Obviously, the process of land titles is not a real priority for the Government—there is a system in place—however, there is the occasional argument about whether lawyers or conveyancers should be involved in conveyancing. That does not tend to be a major political issue, although there have been some prolonged fights over the involvement of conveyancers and non-legally qualified people in conveyancing in New South Wales. My experience is that the experiment with non-legally qualified conveyancers was not a success, given the quite complicated legal framework that still exists and the requirement on conveyancers to deal with a whole range of issues when properties are being bought and sold and when other property transactions take place.

I am pleased that the Government has addressed amendments to the property and title system to improve the efficiency of our land title system. It is already a very good land title system, of which we can be very proud. Any effort to reduce the technicalities and complexities of the system, and thus reduce the costs, is to be supported.

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [8.27 p.m.], in reply: I thank honourable members for their contributions and support for the bill, which I commend to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

GAMING MACHINES AMENDMENT BILL

Second Reading

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [8.29 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The bill before the House contains a range of miscellaneous amendments to the Gaming Machines Act and the Casino Control Act. These amendments have been identified as necessary to the proper functioning of the Act, as experience is gained in the administrative and operational side of administering the legislation. While many of the amendments are minor, they are worthwhile and achieve a greater clarity for the operation of the Act as a whole.

This bill seeks to validate decisions made by the Liquor Administration Board with respect to the initial allocation of poker machine entitlements. When the Gaming Machines Act commenced in 2002, and as a result of the cap on the number of gaming machines in New South Wales, the Board undertook the task of allocating a poker machine entitlement for each gaming machine authorised to be kept in venues across the State.

In doing this, the Board made certain assumptions, based on Crown law advice, as to how to administer this task. Under these assumptions, venues that were not trading at the respective gaming machines freeze date—for example venues with seasonal patronage such as those located at the snowfields—but had authorisations to operate gaming machines, were issued with entitlements for each authorisation.

Subsequent litigation determined that some assumptions made by the Board did not fully reflect the legislation as written. This would mean that over 250 poker machine entitlements in more than 48 venues would need to be withdrawn. Some of those entitlements have been on-sold to other venues.

It is the view of the Government that the position taken by the Board was a more practical one in the circumstances. As a result, it is necessary to validate decisions made by the Board to provide certainty to a number of venues across the State as to the correct number of entitlements held.

Further, the bill seeks to provide guidance to the Board to resolve a small number of outstanding allocation issues that have arisen over time. A scheme will be introduced to allow the Board to grant a special allocation of entitlements for the small number of venues that have not, for a number of reasons, been allocated entitlements under section 15 of the Act. A regulation making power has been inserted into the Act to provide the framework for the allocation scheme. A consultation draft regulation, including this framework, has been prepared and is available to assist Honourable Members in understanding the proposal.

The framework for the special allocation process allows only certain venues to apply for a special allocation. That is, only those venues that were in dispute with the Board as to the Board's assessment of the venue's initial allocation entitlement will be permitted to apply for a special allocation.

Further, in circumstances where the venue was disadvantaged by the timing of the relevant gaming machine freeze (either because they were closed for renovations or in the process of moving premises), the venue must satisfy the Board that there has been continuity of business and any excessive delay in reopening the premises for business is justified in the circumstances.

Finally, for venues that were not closed for renovations or in the process of moving premises, the Board must apply the same rules to determine the allocation as were applied to all other venues in the State prior to the litigation mentioned earlier.

A number of amendments relate to the Government-commissioned review of gambling in New South Wales, conducted by the Independent Pricing and Regulatory Tribunal [IPART]. The IPART report identified the need to establish a strong evidence base from which to inform responsible gambling policy decisions. To this end, the bill seeks to allow for variations to specific provisions of the Act for research or trial purposes.

Naturally, it is expected that consultation would occur with necessary venues, industry and community sectors ahead of any such trial.

IPART raised concerns with regard to the Board being involved in policy decisions with respect to technical standards of gaming machines. The Government has considered these concerns, and this bill proposes that these functions be undertaken by the Department as a more appropriate body to make policy decisions.

The report also considered that the Casino Community Levy should be used for purposes related to responsible gambling, and as such, the bill renames the Casino Community Benefit Fund as the "Responsible Gambling Fund".

The IPART report also highlighted the need to be transparent in regard to the regulation of gaming.

Thus it is also proposed to amend the Act to provide an additional power to set aside current secrecy provisions if it is in the public interest to do so. This provision is in addition to other mechanisms that permit the disclosure of gaming machine information, such as a Freedom of Information application. The bill seeks to improve communication with the public about gaming related matters, and ensures that more information is publicly available.

Other jurisdictions publish greater information for their community than New South Wales. It is important that we too provide more information to the public in recognition of the community's view on gambling related matters.

This is done in a number of ways in other states and territories. One such jurisdiction is the Australian Capital Territory—at any time residents can look up online and see information about gambling.

The bill also inserts an offence for a venue if they fail to enter into arrangements with a problem gambling counselling service or a self-exclusion program for the benefit of patrons. Venues have been required to have an arrangement for a self-exclusion scheme since April 2000, and they have been required to enter into arrangements for counselling services since October 2002. Venues have been given ample time to arrange to have these services in place, and it is now appropriate to penalise those venues who have failed to make appropriate arrangements.

The bill also seeks to increase the efficiency of the Department's compliance program by introducing a power to allow remote inspections. This will allow a special inspector to request documents by way of a notice through the post. This will provide efficiencies to the Department, in particular for inspections of non-metropolitan venues.

The bill also seeks to introduce several offence provisions aimed at ensuring the integrity of gaming in this State. It will now be an offence for licensed dealers, sellers, advisers and technicians to supply or fit unapproved software components into gaming

machines. This amendment seeks to ensure that any modification to a gaming machine is approved by the Board, and that the gaming machine operates in accordance with that approval.

Further, if the Board has issued a notice to update gaming machine software, it will be an offence for dealers, sellers and advisers to release software that has not been updated in line with the Board's direction.

Offences have been included for a hotelier or the secretary of a registered club who fail to ensure that a security seal has been attached to a gaming machine. Further amendments seek to ensure that all gaming machines are connected to the Centralised Monitoring System. These offence provisions seek to ensure the integrity of the gaming industry.

Since the introduction of centralised monitoring of gaming machines, the vast majority of clubs and hotels have taken steps to ensure that all gaming machines report to the CMS. However, there is a small number that refuse to provide assistance to the CMS Licensee to ensure their gaming machines remain connected.

The provisions of the bill will require hotels or clubs to respond to reasonable requests of the CMS Licensee within a two working day period. Responding to such requests may include alerting the CMS licensee that the fault is not attributable to any action on the part of the club.

Should they not do so, the CMS Licensee would then escalate the matter to the Department for compliance action in accordance with agreed procedures. The Minister for Gaming and Racing has asked the Department to consult with the major industry associations about those procedures and to ensure that all involved understand their responsibilities.

The bill introduces similar responsibilities for licensed technicians that undertake work on gaming machines. Licensed technicians must ensure that following work on a gaming machine, it remains connected to the CMS. A defence is provided in circumstances where it is not practical for the gaming machine to continue to be connected to the CMS provided the relevant hotel or club is advised.

Again the Department has been asked to consult with all relevant stakeholders.

It is proposed to amend the Act to make it clear that the Board may suspend or cancel a hotel or club's authorisation to keep gaming machines if the hotel or club fails to pay its monitoring fee or gaming machines tax. This is a power that the Board previously exercised, with some effect, when the gaming machine provisions were in the Liquor Act and the Registered Clubs Act, when the Board was responsible for revenue collection. This amendment seeks to clarify that the Board retains this power under the Gaming Machines Act.

The bill also clarifies that the Board may include in its costs of investigation and approval of gaming machines any fee associated with the testing or evaluation of the machine's compatibility and compliance with the centralised monitoring system. While the testing and evaluation arrangements are yet to be fully determined, the ability of the Board to charge fees in this regard should not be seen as the establishment of a new profit centre, but rather the recompense of costs associated with any development or maintenance of any test tool utilised and the processing of relevant applications.

Finally, a number of minor miscellaneous amendments are proposed in the bill which deal with drafting errors, minor wording changes or similar clarification. I will not go into the detail of all of these amendments other than to note that they are important to the effective operation of the Act.

I note that the Opposition proposed an amendment to the bill in the other place. The amendment sought to ensure that only matters of a regulatory, statistical or industry wide nature are published. The Government accepted this amendment in the other place. The Minister in the other place made it clear that the amendment would not impact on the Department's current avenues for providing information on gaming related matters.

I note that it is the practice that all bills will be scrutinised by the Legislation Review Committee. The Committee's obligations are set out in the Legislation Review Act 1987 and I believe that this bill does not contain any provisions that fall within the areas of interest to the committee.

The bill does not contain any provisions that trespass on personal rights or liberties. It does include some provisions that may be seen to increase the compliance burden placed on venues. However, it is considered that those provisions seek to protect the integrity of the gaming industry.

There is only one regulation making power in the bill. It is narrow and specific, and as such it is not considered that it would inappropriately delegate legislative powers or insufficiently subject the exercise of legislative power to Parliamentary scrutiny. It is noted that a copy of the proposed Regulation has been made available for consideration in connection with this bill.

The bill does not contain any provisions that make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers or upon non-reviewable decisions.

I commend the bill to the House.

The Hon. MELINDA PAVEY [8:30 p.m.]: I lead for the Opposition in debate on the Gaming Machines Amendment Bill. This fairly complicated bill deserves proper analysis. I note the contribution in the other place by the shadow Minister for Gaming and Racing, the Hon. George Souris.

The Hon. Rick Colless: The king of clubs.

The Hon. MELINDA PAVEY: The Hon. George Souris, the king of clubs, was in Tweed Heads on the weekend at the clubs annual meeting. The Hon. George Souris, Leader of The Nationals Andrew Stoner, and Leader of the Opposition Peter Debnam made quite a contribution to the meeting. They understand clubs and the needs of clubs. On the weekend the Opposition, in consultation with industry, announced a fine policy. I look forward to reading the contribution of members of the Labor Party. The Premier announced that as one of his first priorities he would look into it. Premier Morris Mirror Iemma is looking into it. The Gaming Machines Amendment Bill affects the liquor industry and, in particular, hotels and clubs in New South Wales.

Legislation relating to hotels and clubs in New South Wales was somewhat of an obsession with the Carr Government and it is now becoming an obsession with the Iemma Government. Over the year we will see even more amendments and overhauls to the Liquor Act. This bill is a response to the report by the Independent Pricing and Regulatory Tribunal [IPART], which was commissioned by the Government to report on a multitude of harm minimisation measures. The key objectives of the bill include amending the Gaming Machines Act 2001:

(a) to provide for the allocation of poker machine entitlements to certain hotels and registered clubs that have not been allocated entitlements under the existing arrangements,

(b) to make it an offence for a hotelier or registered club not to enter into arrangements for making problem gambling counselling services available to patrons,

(c) to make it an offence for a hotelier or registered club not to enter into arrangements for establishing self-exclusion schemes for patrons or to publicise the availability of such schemes,

(d) to make it an offence to supply or install unapproved gaming machine software and to create other offences in relation to the regulation of gaming machines,

(e) to require gaming machine technicians to ensure that hotel or club gaming machines are connected to an authorised centralised monitoring system,

(f) to make it clear that the Liquor Administration Board may cancel a hotelier's or registered club's authorisation to keep gaming machines if the hotel or club fails to pay machine tax or the CMS monitoring fee,

(g) to enable special inspectors to require hoteliers, registered clubs and holders of gaming-related licences, by notice in writing, to provide information and documents in relation to their businesses,

(h) to extend the authority to publish information in relation to gaming machines,

(i) to make other miscellaneous amendments of a minor or consequential nature.

The Minister stated that the Casino Benefit Fund will be renamed the Responsible Benefit Fund. However, the general method of operation of this newly renamed fund has not been addressed. Revelations from budget estimates two years ago showed that not all the money was being appropriately used to support organisations such as Wesley Mission and to address the consequences of problem gambling. In fact, the money was being diverted to fund inquiries that the Government intended to undertake and to support an exhibition regarding historical and modern poker machines rather than dealing with people who might have gambling problems. The bill specifically enforces the provision that the power to allocate funds in the Responsible Gambling Fund lies with the Minister for Gaming and Racing. I hope the Minister will ensure that those funds go where they were originally intended to go.

Some concern has been expressed about the amendment to section 62. That amendment will transfer responsibility for technical standards from the Liquor Administration Board to the Director-General of Gaming and Racing. ClubsNSW has raised technical standards in relation to poker machines and, in particular, the issue of pop-up messages. As such I place its concerns on the record. I reiterate the comments made by the shadow Minister, the Hon. George Souris, and state that it would be unreasonable for standards of this nature to be imposed with very little notice and with the expectation that industry will be able to comply with them immediately. Small clubs would find complying with these new standards difficult without a phasing-in period, especially as they are already strapped for cash. I am satisfied that the Minister stated publicly there will be a five-year phase-in period in relation to new technical changes that may be part of the implementation of IPART's recommendations.

As I said, the Opposition does not oppose the bill. I congratulate the shadow Minister on his input to the bill and on his success in getting some amendments through the lower House when the bill was introduced. It is quite obvious that the shadow Minister should be Minister for Gaming and Racing. He has far more talent—he would not need much talent to have far more talent—than the current Minister. At the recent gaming

and racing budget estimates committee Minister Grant McBride showed an extraordinary display of incompetence. The gaming and racing industry in New South Wales is an important part of the fabric of our society.

We might not like the concept of gambling and many honourable members might be concerned about gamblers going beyond their financial limits. However, the vast majority of Australians and people in New South Wales know that problem gambling affects only a small section of the community. I have seen the effect of problem gambling on families, which is a matter of some concern and that is why the Opposition will not oppose these amendments. These amendments will ensure that people with a gambling problem have a better chance of overcoming their problems in close co-operation with the clubs or hotels they attend.

It is a shame that we do not have a Minister who has a proper grasp of his responsibilities. Over the past few years the shadow Minister for Gaming and Racing, who does a good job, has moved a number of amendments to improve several pieces of legislation. I said earlier that the shadow Minister announced in Tweed Heads changes to the Government's policy relating to club tax and its effects. The policy that was drafted by the shadow Minister and announced in Tweed Heads is a good sign of the shadow Minister's ability and the Government's inability to address that issue. Ever since the Opposition released its policy at the weekend the Labor Party has been silent. The only words spoken by the Government have been to the effect that it might have something by the end of the year.

Everyone involved in the club and hotel industry in New South Wales will wait with bated breath to see whether the Premier is able to deliver on his earlier commitments and promises. For the sake of industry and clubs in New South Wales I hope the Government accepts the recommendations and memorandum of understanding agreed to between the Opposition and the club movement. Delegates from many clubs attended the conference at the weekend, for example, Randwick Labor Club and Merrylands club. Delegates from a number of clubs gave Opposition members a standing ovation.

The Hon. Amanda Fazio: They were slow clapping them off the stage, you goose!

The Hon. MELINDA PAVEY: Were Government members at that meeting? Is that the attitude of the Labor Party to the Randwick Labor Club and to the Merrylands club? Do they hold the views of those clubs in contempt?

The Hon. Amanda Fazio: No, I hold you and your policies in contempt.

The Hon. MELINDA PAVEY: Government members refute the policy of Opposition members. They will not be doing anything to improve the viability of clubs or to continue the support given by clubs to their local communities. I acknowledge the interjections by the Hon. Amanda Fazio and am glad that they will be recorded in *Hansard* to be read by the many good and decent Labor Party members who attend clubs across New South Wales. The Opposition does not oppose the Gaming Machines Amendment Bill. I acknowledge the hard work of the shadow Minister in the other place in improving the bill.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.40 p.m.]: The Gaming Machines Amendment Bill amends the Gaming Machines Act 2001 and the Casino Control Act 1992. Amendments under schedule 1 will provide for the allocation of poker machine entitlements to certain hotels and registered clubs that have not been allocated entitlements under the existing arrangements. They will create a maximum offence of 100 penalty units for an hotelier or registered club that does not enter into arrangements that make problem gambling counselling services available to patrons or fails to establish self-exclusion schemes for patrons or to publicise the availability of such schemes. This offence will also be in amendments to the Casino Control Act. An additional offence will be created of supplying or installing unapproved gaming machine software and other offences will be created in relation to the regulation of gaming. Gaming machine technicians will be required to ensure that hotel or club gaming machines are connected to an authorised centralised monitoring system [CMS]. Failure to do so will incur a maximum penalty of 100 penalty units.

Additional clarification will be made that the Liquor Administration Board may cancel the authorisation of an hotelier or a registered club to keep gaming machines if the hotel or club fails to pay gaming machine tax or the CMS monitoring fee. The bill will also enable special inspectors to require hoteliers, registered clubs and holders of gaming-related licences to provide information and documents in relation to their businesses by notice in writing. The authority to publish information in relation to gaming machines will be extended in the public interest.

Amendments to the Casino Control Act 1992 will require casino operators to pay a responsible gambling levy to the Casino Control Authority—which will replace the existing casino community benefit levy—to provide for the payment of the levy into a Responsible Gambling Fund and to enable the Minister for Gaming and Racing to pay money out of the Responsible Gambling Fund for any purpose that is consistent with the provisions of the trust deed set up to administer the expenditure of money in the fund. I am most encouraged by new section 26, which permits the Minister to vary or suspend the operation of the Act for research or trial purposes. The Minister, the Director General of Gaming and Racing and I have butted heads in the past about access to such information for social policy research purposes.

I believe this is an extremely important issue. The data that enables social policy research must be available free of charge to bona fide researchers. The gaming industry must not have control of such research. During debate in this place I frequently draw analogies with the tobacco industry. Tobacco research was conducted entirely by the tobacco industry. It maintained credibility by pretending that it did not know the answers and continuing with research, which it had plenty of money to fund. However, money is not available for research into the gaming industry. Problem gambling is a social problem not a health problem, and the funding structure for social research does not exist to the same extent as it does for health research. However, the figures must be made available. The Government could choose to deny that information in a niggardly fashion to bona fide researchers who might mitigate the harm that gambling causes. That would be a very poor show, and I have clashed with the Minister and the director general on this subject in estimates committee hearings for several years.

Since 2001, every time a bill that amends the Gaming Machines Act has come before the House I have attempted to move amendments to legislate player-for-player activity statements—that is, harm minimisation through technology that will interact with the player activity statements that inform players of their total turnover during the month for the period covered by that statement; that inform players of the total wins recorded during the monthly period; the net expenditure, which is turnover less wins during the month; the total points earned and redeemed during the month as a result of playing gaming machines under the scheme; the total length of time over each 24-hour period during the monthly period when the participant's player card is inserted in gaming machines under the scheme; and the total length of time that the participant's player card is inserted in gaming machines under the scheme during the month.

Basically, such statements would inform gamblers how much time they have spent gambling and emphasise how much money they have won or lost—and, because of the way statistics work, they will almost always have lost money. This information could be provided through the CMS with relatively minor modifications. The tobacco industry claimed that it cost a fortune to produce a new cigarette packet design every time it was forced to do so yet it designed special packets just for Qantas passengers. In a similar manner, the gaming industry claims that it cannot possibly modify machine software and the CMS to allow player-specific messages. However, it is more than happy to collect the jackpot figures and distribute them. That is humbug. Public funds paid for the CMS, which is owned by the public. We should restate that fact every time we debate a gaming bill in this place. I believe the CMS should broadcast messages on behalf not merely of gambling interests but of those with a social conscience. I believe the broadcasting Act permits social messages to be broadcast on the CMS.

The technology exists to display on-screen time and harm minimisation icons. Every time I call for this change the Government comes up with some lame excuse and promises that it will get the technology online next time. But when the next bill comes along nothing has been done. The Opposition glibly backs the Government on this every time—it knows on which side its bread is buttered. Some would argue, as the Government sometimes does, that such amendments are beyond the leave of the bill. However, I remind the Government of the necessity to insert after section 49 of the Gaming Machines Act 2001 a new section 49A, which would read:

> A hotelier or registered club must ensure that the following is displayed on each operating gaming machine display screen in a club or hotel prior to the commencement date is determined by the regulations being no later than two years from the date of proclamation of this section:
>
> (a) the time in either a digital or analog display accurate to 7 minutes of the correct time, with numerals for a digital display 1 cm or greater or the diameter of the analog clock 3 cm or greater.
>
> (b) further on-screen harm minimisation information and other items as determined by the regulations.
>
> Maximum penalty: 50 penalty units.

Alternatively, the new section 49A could read:

> 49A Display of on-screen time and harm minimisation items
>
> A hotelier or registered club must ensure that on-screen harm minimisation information and other items as determined by the regulations are displayed on each operating gaming machine display screen in a club or hotel prior to the commencement date as determined by the regulations being no later than two years from the date of proclamation of this section.
>
> Maximum penalty: 50 penalty units.

While amendments to this bill relating to CMS technology are encouraging, I think more harm minimisation should be specified. The Department of Gaming and Racing issued the first determination of technical standards in November 2000 and we are still waiting for the legislation. The submission by the Liquor Administration Board to the Independent Pricing and Regulatory Tribunal, which was entitled "Review of Gambling Harm Minimisation Measures", endorses the implementation of such measures. It states:

> In preparation for introduction of this measure, when the remaining matters in the First Determination are implemented, the Board arranged for the focus group research into the contents of the messages, and as set out earlier, to be undertaken. The Board has determined the contents of the first 4 messages to be mandated.

In particular, the board states:

> The Board believes that gamblers should be provided with as much information as possible to assist them to decide whether to commence or continue playing. The contents of the proposed messages will provide such information. The time taken to provide the message will also be a circuit-breaker.

The board also agreed with the recommendations of the Productivity Commission that enforced breaks are needed to allow gamblers to pause before playing on automatically. The board also supported the idea that the prescribed messages should be required to scroll across the screen at least once every 30 minutes during continuous use of the machine and that the content of those messages should be consistent with all other harm minimisation messages.

In June this year IPART released a report entitled "Gambling: Promoting a Culture of Responsibility", in which it considered the merits of periodic information messages, display of payout ratios for gaming machines and information on individual gambling sessions. The IPART report states on page 58 under the subheading "Evidence":

> There are two studies of particular relevance to periodic information messages. The first, conducted by Tony Schellink and Tracy Schrans, focussed on responsible gambling features and other changes to 1,400 gaming machines in Nova Scotia, Canada. One of the responsible gambling features introduced was a pop-up reminder, which advises the player how long they have spent playing that machine after 60, 90 and 120 minutes. The study was based on a sample size of 164 people who played gaming machines at least monthly, of which 30 were classified as problem players. The same people were surveyed on four occasions over a period of nine months.
>
> This study found that a message after 60 minutes of continuous play was effective in reducing session length. The message advised players how long they had been playing and asked whether they wished to continue.
>
> There was also a second study. The tribunal considered that there is sufficient evidence and stakeholder support for it to recommend the introduction of pop-up messages after 60 minutes of continuous play. The introduction of this measure should be accompanied by research to evaluate its effectiveness. The tribunal also noted that the introduction of this measure would be linked to the introduction of clocks on gaming machine screens, in terms of both technology used and phase-in with new machines.

Page 61 of the report refers to information on individual gambling sessions. It notes that the existing technical standards for gaming machines require that these machines provide the player with information on the monetary value of their credits, bets and wins. These requirements could be extended so that gaming machines also provide information to players on an individual gambling session, including the time and money the player has spent gambling. The tribunal's recommendations address provision of a range of information for players of gaming machines about individual gambling activities and the gambling environment, including the display of the monetary value of credits, bets and wins; the introduction of 60-minute pop-up reminders on gaming machines; and more effective utilisation of longer-run player activity statements.

Given the concerns expressed about the effect of providing further information about time and money spent during individual gaming machine sessions, the tribunal considered that this measure should not be introduced at this time. It recommended that the requirements to provide information on individual gambling sessions on gaming machines should not be introduced at this time. I think that is a highly conservative

recommendation. I have merely included it for the sake of honesty. I believe the CMS, as a monopoly, must take account of the social effects of gambling and the transfer of the CMS licence under this legislation should not stop the provision of harm minimisation measures in gambling using CMS technology to achieve that objective. As it is quite capable of collecting information about capital movements, such as jackpots and dividends, it should also be able to take account of the effects that it is having on individual players.

Ms LEE RHIANNON [8.52 p.m.]: The Greens do not oppose the Gaming Machines Amendment Bill. However, I foreshadow that during the Committee stage I will move amendments that require the Department of Gaming and Racing to make publicly available, free of charge, certain information about clubs and hotels and the profits they make from gaming machines. The Greens understand the need to deal with venues that are still owed poker machine entitlements for various reasons. That being said, we are concerned about advice from the Gambling Impact Society of New South Wales—a not-for-profit consumer organisation representing those who have suffered the impact of problem gambling—that the current legislated requirement for social impact studies to be completed for venues with more than four machines has turned out to be little more than a joke.

The society says that the required consultation with area health services, local councils and local gambling counselling services is not being properly conducted. Venues that do consult usually do not consult at the early stages but after they have drafted a report, and those consulted are usually not sufficiently resourced to comment. The Gambling Impact Society recommends the establishment of a statutory body to represent community interests in gaming machine expansions, to help ensure that such a consultation and assessment process is meaningful and that its results are taken into full consideration when allocating entitlements.

The Greens support the new offences in this bill that underline the obligation hotels and registered clubs have to make problem gambling counselling services available and to establish self-exclusion schemes for people who need them. However, the operation of these two initiatives is problematic in practice. Gambling venues should be obliged to inform patrons of all gambling counselling services in their area. Some venues believe they fulfil their obligation by having only one or just a few counselling services on their books. The Gambling Impact Society says that means patrons are failing to get information about a variety of services they may need. While the Greens support the clear need for self-exclusion schemes, more needs to be done to remove practical barriers to patrons taking this step. Currently people must visit individual clubs to self-exclude, which creates obstacles in relation to transport, motivation and the cost required to do so. We need a scheme that allows for multivenue exclusion through one simple process.

With this bill the Government is again tinkering around the edges. The Government-commissioned report of the Independent Pricing and Regulatory Tribunal [IPART] entitled, "Gambling: Promoting a Culture of Responsibility" contained 108 recommendations. The Government's 2005 response to that report is typical of its kind—puffed up and self-congratulatory about work the Government has supposedly already done, and happy to make promises about the work it will do in the future. Of course, the trick is doing the work. The Greens do not see in this bill or in other non-legislative work of the Government that it has the will or inclination to get stuck into this area and tackle the significant problems presented by gambling in this State.

The Government continues to be comfortable milking gamblers in New South Wales. The Greens believe it is an absolute tragedy that this Government has become so reliant on the drip feed from the money of gamblers. This dirty money is relied on as a primary core source of revenue—pocketed to increase the surplus, to do things such as build motorways, to construct coal-fired energy stations and to create more correctional centres. This is despite the devastating impact problem gambling can have on individuals, their families and communities. While most Australians gamble responsibly, there are significant social, health and welfare costs associated with excessive and problem gambling.

The 1999 report of the Australian Productivity Commission entitled "Australia's Gambling Industries" showed that gambling is absorbing an increasing share of household income. The money spent on gambling is coming out of the pockets of families and is causing hardship. We can only imagine that it is at the expense of essentials such as food, clothing or rent. The Productivity Commission estimated that about 2.1 per cent of Australia's adult population have moderate to severe problems with gambling. While others may try to diminish the scale of this by saying it really is a relatively small number of people, problem gamblers make up approximately one-third of the total expenditure on gambling in Australia. The Productivity Commission found that regular gamblers are largely men, many of them are young and they often have low levels of education.

An important characteristic of problem gambling is that it is just not the gambler who bears the social and economic losses of their problem. The commission estimates that 5 to 10 other people may be directly

affected by a gambler's behaviour, including family, employers and debtors. The impact of problem gamblers does not just stop at the door of those people either. Problem gambling also stretches community and public service resources. The Greens believe the Government and the Opposition lack the will to fix these problems. The core of the problem is that they have become dependent on the money spent on gambling. Those two parties continue their softly-softly approach to regulate gambling, to make things reasonably comfy for their mates in the club and hotel industry.

The Australian Labor Party and the Coalition still accept big donations from this industry, actions that clearly weaken democracy in New South Wales. It is interesting to see the fluctuations of donations in recent years. Information on the Greens *www.democracy4sale.org* web site shows gaming companies donated $211,900 to the Australian Labor Party in 2001-02. Gaming companies donated $143,517 to the Australian Labor Party in the following year, in the lead-up to the State election. It dropped to a still not unsubstantial amount of $99,350 in 2003-04. With the election over, there were obviously fewer favours worth trying to buy. Clubs and hotels gave the ALP $686,936 in the pre-election year 2002-03. This suffered a steep drop to $173,000 in the following post-election year of 2003-04. The Liberal Party received $303,130 from clubs and hotels in 2002-03 and $243,985 the following year. I guess it figures it will get into power one day. It is therefore not surprising so little is being done by the New South Wales Government to regulate this very powerful, very lucrative and very destructive industry. The New South Wales ALP is being fed very nicely by the gaming industry from both taxes and donations.

While there have been some changes from this Government, such as the introduction of shutdown periods and caps on the number of poker machine licences handed out, these initiatives have not gone far enough and have been riddled by softeners, exemptions and loopholes. Look a bit closer and you will see that this is window-dressing and that very little is being done to make the industry act responsibly or to protect problem gamblers. The Government needs to seriously address the abhorrent profits being made by the gambling industry and the tax it is reaping as a result. In the year to 30 June 2004 gaming machines at registered clubs turned over $37.5 billion and made $3.2 billion in profit. The Government collected almost $435.8 million in tax from club pokies. In the same period hotels turned over $14.5 billion from gaming machines and made a profit of $1.5 billion. The Government collected $364.6 million in tax. These figures have all increased, not decreased, since the Greens last spoke on a gaming machine bill in this House.

Not only does the Government need to reduce the number of poker machines and opening hours during which patrons can gamble, but also it should concentrate on stronger consumer protections for people who play gaming machines, particularly to reduce the intensity with which people can use these machines. Mark Dickerson, from the University of Western Sydney, has published some persuasive evidence from a study of over 200 regular pokie players showing that the commonly reported impaired control people experience with cash and time budgets is not necessarily an indication of pathology but a natural response everyone has to modern poker machines.

It is important that the Government therefore considers ways to employ technology to dull the intensity of gambling; for example, by modifying machines so that they do not accept high value votes; abolishing note takers; capping the maximum level of a bet; placing restrictions on the speed at which machines process bets; removing ATMs from venues; and levying a charge on clubs and hotels when gaming machine turnover exceeds an agreed benchmark each quarter. The Independent Pricing and Regulatory Tribunal examined some of these measures but, in the opinion of the Gambling Impact Society, IPART did not go far enough and put many of these options in the too-hard basket.

One of the areas where the Government has invested some money is on therapeutic intervention for problem gamblers. Again the Government has failed to do a thorough job. It needs to seriously consider the IPART recommendation for an accreditation program for problem gambling counselling services to make sure these services are of the highest quality possible. We should also be wary of developing a response that focuses too narrowly on the pathology of the individual problem gambler. While this kind of tertiary intervention is very important, it needs to be balanced by investing in primary intervention responses that build community education and prevention measures to promote responsible gambling.

The Greens support calls from the Council of Social Service of New South Wales for the establishment of an independent gaming commission and a gambling industry ombudsman. Independence and oversight are critical. We cannot be confident that the Government is doing its best for people living in New South Wales when we consider the masses of money it reaps from gambling revenue and the donations it pockets from the gaming, hotel and clubs industries. A New South Wales gambling industry ombudsman, recommended by

IPART in its 1998 report, would offer an independent avenue for patrons of gambling activities to resolve complaints and could help drive service improvements for gambling consumers.

The bonds the Opposition has with the gambling, pubs and clubs industry are evidenced by its quick work in the Legislative Assembly to amend this bill. The amendment, supported by the Government, stifles the ability of the Minister to approve the release of information by the director general about gaming activities or operations in this State if he believes it is in the public interest to do so. The cropping by the Opposition of the Government's proposed public interest exception to ensure only matters of a regulatory, statistical or industry-wide nature are published is really an attempt by the Opposition to hide from public scrutiny what is going on in this industry.

In closing, the Greens join the Opposition in the Legislative Assembly in condemning the Government for bringing on this and other bills in the Legislative Assembly in such a screaming hurry. Such behaviour is a slight to the democratic process and symbolic of this Government's arrogance. Reforming our laws should be a considered process. Bills should be open to examination and challenge to make sure the Government has got things right. I note the Minister for Gaming and Racing made a pathetic attempt to explain in his second reading speech why the bill was not by then scrutinised by the Legislation Review Committee. It is really not up to Mr McBride to decide what falls inside or outside the committee's ambit. Bringing on bills without an opportunity for consultation and proper review shows an unaccountable Government that has lost touch with basic democratic practice and, what is worse, does not care about the consequences. They might sound harsh words, but when we consider the enormity of the gambling problem in this State they are most appropriate.

Reverend the Hon. FRED NILE [9.06 p.m.]: This bill deals with a number of technical matters that improve some aspects of the administration of poker machines. Although the Christian Democratic Party supports the bill, it does not mean we endorse gambling or the influx of poker machines. The legislation will improve the existing situation. It is a sad moment tonight when we consider that the Government introduced the six-hour daily shutdown of the State's poker machines, which we strongly supported, in the hope that this would slow down the use of poker machines in New South Wales. Clearly it has not been successful.

The latest figures from the Department of Gaming and Racing reveal that hotel poker machine profits have risen 11 per cent since May 2003 when the shutdown between 4.00 a.m. and 10.00 a.m. was introduced by the State Government to combat problem gambling. That means hotel gaming profits have surged another $146 million. It is a sad moment because members will know that when we came to debate the bill that put 25,000 to 27,000 poker machines into the hotels it seemed for a moment that we would defeat that bill. The majority of crossbench members opposed the proposition and we understood the Coalition opposed it as well. However, as members know, when we came to the vote on the bill the Coalition voted for it. In spite of having organised the numbers to defeat the bill, my attempt failed because the Coalition changed its position. I had been told it would oppose the bill. It is sad to see the fruits of this decision and its impact on our State.

In addition to the number of poker machines in clubs there is a total of 99,123 poker machines—that covers the various gaming machines—in pubs. We note that club profits from gaming machines have increased from $745,862,000 to $814,823,000, which is an increase of 9.25 per cent. Hotel profits from gaming machines increased by 11 per cent and club profits increased by 9.25 per cent. The Christian Democratic Party, together with other members of the House, particularly the Greens, supported the cap on the number of poker machines in clubs and pubs. However, we note that 301 hotels and 329 clubs have been given various exemptions because of hardship claims, which means they have been able to avoid the impact of the shutdown and rearrange the number of poker machines to get around the cap. It is clear that hoteliers are now making $4.06 million profit a day—not a week, not a year, but a day. The majority of the 10 highest-earning poker machine hotels and clubs are in the western suburbs of Sydney, an area in which gambling probably can be least afforded.

The 10 top-earning hotels include the Hurstville Ritz Hotel, the Campsie Hotel, the Oasis on Beamish in Campsie, the Meridian Hotel in Hurstville, the Cambridge Tavern in Fairfield, the Burwood Hotel, the Castle Hill Tavern, the Crows Nest Hotel in North Sydney, the Novotel Brighton Beach in Brighton-le-Sands and Churchills Sports Bar in Kingsford. The 10 top-earning clubs include the Bulldogs Leagues Club Limited in Belmore, Mount Prichard and District Community Club Limited, Bankstown District Sports Club Limited, Parramatta Leagues Club Limited, Penrith Rugby League Club Limited, Rooty Hill RSL Club Limited, St George Leagues Club Limited, South Sydney Junior Rugby League Club Limited, Cabra-Vale Ex-Active Servicemen's Club Limited and Western Suburbs (Newcastle) Leagues Club Limited. The majority of those hotels and clubs are in the western suburbs where we know that many families cannot afford to spend hundreds, if not thousands, of dollars on the various forms of gaming machines, but that is what they are doing. It is an indirect tax on working-class families.

Areas with money—the northern suburbs, or even the eastern suburbs—do not have clubs or hotels included in the list. Perhaps people in those areas use their money in more sophisticated forms of gambling, such as at the casino, but I doubt it. They probably have more sense and they probably have not been sucked in by the dream of making easy money or winning money. They cannot, of course. Patrons keep putting money into the machines and every so often they hear someone win the jackpot. That is misleading and only encourages them to continue gambling in the hope that they will be the next to win the jackpot. The harmful effects of poker machines of various types pose a serious problem in New South Wales. Last year 18,200 people who recognised that they had a gambling problem and wanted counselling made desperate calls to G-line. If that is not bad enough, 102—a disturbing number—of the 18,000 plus people were considering committing suicide because of the debt gaming had got them into, problems with their jobs or problems with their partners.

We talk a lot about saving lives, and rightly so. We introduced random breath testing, which I support, and other measures to reduce fatalities and accidents on our roads. But it seems that we are not so concerned with people who suffer from the impacts of gambling and those who consider suicide. How many suicides have been triggered by a gambling problem but are not listed in the statistics? There is no doubt that the loss of finances and time to gambling on poker machines produces anxiety, depression, guilt, stress, attempted suicide or suicide. The June 2004 report of the Independent Pricing and Regulatory Tribunal entitled "Gambling: Promoting a Culture of Responsibility" stated that interpersonal problems related to problem gambling are also significant.

Arguments with family members, friends and work colleagues, and relationship breakdowns due to insufficient time spent with the family are not uncommon amongst problem gamblers. We have seen the tragedy of individuals who have got themselves into debt because of gambling. They work in a bank or have control of a company's finances and take money from the company. Eventually they are found out and end up spending years in gaol.

The legislation is intended to improve the operation of what is called the gaming legislation. When I was first elected to this House 24 years ago I said that it should be called the gambling legislation, because gaming makes it sound innocent, attractive almost. I believe the use of soft terminology by both the Government and the Opposition is a deliberate attempt to conceal the real impact of what we are talking about. The Gaming Machines Act should be called the gambling machines Act. We should talk about gambling when we debate it. There are various controls on gaming or gambling machines. The board responsible undertook the task of allocating poker machine entitlements for each gaming machine, or gambling machine as I call them, authorised to be kept in venues across the State. In doing so the board made certain assumptions based on Crown law advice as to how to administer the task.

Under these assumptions venues that were not trading at the respective gaming machine freeze dates—for example, venues with seasonal patronage such as those located at the snowfields—but were authorised to operate gaming machines, were issued with entitlements for each authorisation. Those words are from the second reading speech. It is known that litigation followed where the courts determined that certain assumptions made by the board did not fully reflect the black letter law. The bill seeks to validate decisions made by the Liquor Administration Board with respect to this initial allocation of poker machine entitlements. It is a practical necessity for venue owners, otherwise more than 250 poker machine entitlements in close to 50 venues would need to be withdrawn. I would not be sad if that happened. It is plain that if there were fewer poker machines in New South Wales, the harm caused to gamblers would be minimised. I prefer the term "harm prevention" to the rather soft and misleading term "harm minimisation". The Christian Democratic Party and I will do all that we can to oppose gambling in this State, particularly poker machine gambling.

The Department of Gaming and Racing has indicated that in the period 2002-03 the gambling industry had a turnover of $47.7 billion. That indicates the impact that gambling, particularly poker machine gambling, has had on this State and the extent of the revenue received by the Government that is really a form of indirect taxation. The bill will change the name of the Casino Community Benefit Fund to the Responsible Gaming Fund in accordance with a suggestion made in the Independent Pricing and Regulatory Tribunal [IPART]. To my mind, the change of name is all a play on words because I doubt that there is any such thing as responsible gambling.

The Casino Community Benefit Fund receives casino community benefit levies from casino licensees and those funds were to be utilised for community purposes. The specific purpose of the Casino Community Benefit Fund is to advise the Minister on matters of education, research, community projects that might be funded, gambling counselling services, encouragement of accreditation and professional development of

counsellors, and the provision of funding to community organisations. Many excellent organisations are involved in dealing with gambling. As many honourable members would be aware, the Wesley Mission runs the Wesley Gambling Counselling Service and is a major recipient of funding. The Wesley service provides a range of services to gamblers, partners and families who are experiencing difficulties associated with the impact of problem gambling. The services are provided free of charge to its clients. The Casino Community Benefit Fund has a number of trustees that make recommendations to the Minister on the manner in which the funds will be applied for the benefit of the community. My colleague Reverend the Hon. Dr Gordon Moyes has spent an enormous amount of his time as a trustee of that fund.

The need for transparency in the regulation of gaming was highlighted by IPART. This bill provides for more information to be available to the public as a way of recognising the community's view on gambling-related matters. I commend the Government for introducing such measures because we must warrant against an ill-informed or misinformed community in relation to issues that are as significant as gambling. The effective advertising of G-line is also necessary. I hope the Government will give serious consideration to ensuring that information on G-line is readily available so that all those affected negatively by gambling are aware that counselling and support are available. The bill will also require hoteliers or registered clubs to provide problem gambling services or face a maximum potential sanction of $11,000. Item [7] inserts in the Gaming Machines Act a new section 46 (1), which states:

> A hotelier or registered club must, in accordance with the regulations, enter into arrangements for problem gambling counselling services to be made available to the patrons of the hotel or club.

Hotel and club venues have been given ample time to arrange to have those types of services in place. It is now appropriate to penalise venues that have failed to make appropriate arrangements. I urge the Government to be diligent in ensuring that hotels and clubs fulfil their obligations under this legislation. While I note that the bill introduces a number of practical improvements, that is similar to trying to improve on a cancer in our society, which cannot be done. However, to the extent that this bill is intended to address gambling problems, the Christian Democratic Party supports it.

Ms SYLVIA HALE [9.23 p.m.]: The Greens are highly critical of this bill, which obviously is merely another attempt to tinker with the problem. The bill is indicative of the way in which the Government is so dependent upon contributions from clubs and gaming machine revenue that is coming into its coffers.

The Hon. Dr Arthur Chesterfield-Evans: It is 11 per cent of the State budget.

Ms SYLVIA HALE: As the Hon. Dr Arthur Chesterfield-Evans says, the revenue represents 11 per cent of the State budget. I well recollect when I was a councillor reading reports of contributions that would be directed to clubs and other organisations that were to benefit from the revenue, but the amounts were minuscule percentages of profits in excess of $1 million that were being made by the clubs. The proposal was laughable. It was patently obvious to everyone that the clubs were siphoning money out of the community, yet there was a media campaign suggesting that problem gambling would be resolved by clubs and hotels giving the occasional charitable handout. Of course the proposal did not resolve any problems but, rather, exacerbated and exaggerated them.

In June this year an anti-gaming machine group decided that it would take action in the Federal Court by running a class action case to challenge the legality of gaming machines. It seems extraordinary that a group in the community felt obliged to take legal action to oppose the activities of the gaming machine industry. That is a reflection of the severe difficulties imposed upon the community by the gaming machine industry. A report in the *Sydney Morning Herald* on 16 June describes the nature of the class action:

> An anti-pokies group has signed up 200 problem gamblers to help challenge the legality of gaming machines in a class-action case.
>
> The group, Duty of Care, yesterday filed an application in the Federal Court to access thousands of internal documents from governments and the gaming industry to help define its case.
>
> Duty of Care's president, Lana O'Shanassy, said the action would seek to make the gaming industry accountable.

Ms O'Shanassy, a former gambler, is quoted as having said:

> "This class-action is to punish the gaming industry in an amount proportional to the wrong they have caused.

> The class-action would represent an estimated 500,000 problem gamblers and could seek hundreds of millions of dollars in compensation", she said.
>
> The case would argue that the introduction of the machines into hotels in NSW in 1997 was unconstitutional because it was inconsistent with the "harm minimisation" objective of gaming machines legislation.

In the class action, the challenge in the Federal Court alleges that poker machines have deliberately inflicted physical and emotional injury on players; the industry has been negligent by not warning gamblers of the potential harm from machines; poker machines have been misrepresented as games of chance; gaming providers have engaged in deceptive and unconscionable conduct and have been enriched unjustly; and gamblers have been knowingly incapacitated and unduly influenced to gamble. The article goes on to state, "The group says gaming machines violate legislation because they do not issue receipts for transactions." The Australian Hotels Association has expressed an intention to contest the action.

As anyone who has been inside casinos and clubs would know, gaming machines in those establishments are always located well away from sunlight, in darkened areas where there are usually no clocks. In those circumstances, people have absolutely no notion of the passage of time, and while they are there, they are induced to continue gambling. In casinos in particular, it is possible for people not to leave the machines at all because they can have coffee and other refreshments brought to them. The inducement to continue to gamble, despite the loss of money, the ready access to automatic teller machines—

The Hon. Dr Arthur Chesterfield-Evans: Which is supposed to be illegal.

Ms SYLVIA HALE: Yes, that is supposed to be illegal, but obviously all this is designed to facilitate people putting more money into the machines. I notice that a feature of many clubs is that they offer cheap meals. In a typical RSL club one notices many patrons are elderly. Undoubtedly the prospect of cheap meals is a real attraction. The whole object of clubs is not so much provision of cheap meals but rather to ensure that people are consistently attracted, that they have a reason to go to the clubs, and once there that they will continue to operate the machines, that they will become involved in the process of gambling. As has been pointed out on numerous occasions, many years ago if someone played a poker machine at least some time was taken to pull down the handle, wait for the wheels to spin, and then see the result. Today, even that time has been eliminated: one presses a button and there is an almost instantaneous result.

The whole purpose of modern machines is to speed up the process in which unwary gamblers can lose their money. Obviously some gamblers are able to control their habits, some people may be quite happy to lose a certain amount of money. As everyone knows, ultimately the only winners are the machine operators, not the gamblers. Some people are able to limit the amount of money they gamble. However, a significantly large number of people—often desperate because of their indigent circumstances or because of the pressing nature of bills, or whatever—cling desperately to the hope that they will strike it lucky. And, having struck it lucky, they may be inclined to gamble and go more and more into debt. Obviously, any legislation that curtails access to gambling machines is desirable, but the Greens will move an amendment to oblige information regarding profits and location of machines to be made publicly and readily accessible. I have a very grave concern that so much of the Government's budget should be dependent on income from such a reprehensible source.

The Hon. HENRY TSANG (Parliamentary Secretary) [9.32 p.m.], in reply: I thank honourable members for their contributions to the debate. The measures in the bill make a range of legislative amendments that are required to ensure the proper functioning of the Act. Many of the amendments are minor, but they are worthwhile and they achieve a greater clarity for the operation of the Act as a whole. In 2003 the Government commissioned the Independent Pricing and Regulatory Tribunal [IPART] to undertake a major public review of the Government's response to problem gambling in this State. Last year, IPART made more than 100 recommendations about how that response could be improved. The Government is adopting virtually all of those recommendations.

It is clear that the Government has a substantial record in addressing problem gambling. The IPART report and the Government's response provide a very clear guidepost as we continue working to curb gambling problems and improve the outcomes for those who are affected by the problems that gambling can cause. I will respond briefly to three points raised by the Hon. Melinda Pavey. The first referred to the impact on small clubs of changes to technical standards. The Minister for Gaming and Racing stated in the Government's response to the IPART that there would be a phase-in period for changes to the technical standards. The second point referred to the Liquor Administration Board being replaced in the approval of technical standards. Currently, the responsibility for approving technical standards lies with the Liquor Administration Board. The IPART, in its

consequential report on governance structures, recommended that the responsibility for the development of amendments to legislation should lie with the Department of Gaming and Racing, and the Liquor Administration Board should reflect those amendments in the technical standards.

The third point raised related to a change of name of the Casino Community Benefit Fund. The Government has supported recommendations made by the IPART in its report entitled "Gambling: Promoting a Culture of Responsibility" to refocus the objectives of the fund. The Government recognises that implementing the IPART's recommendations with regard to responsible gambling awareness campaigns, the accreditation of counselling services and the commissioning of policy-relevant research, will make a substantial call on the resources available to the fund. The IPART recommended also that funding to non-gambling related community projects under the fund should be discontinued and that all available funding be allocated to responsible gambling projects. Therefore, allocations from the fund will, in future, be made in accordance with the clear responsible gambling priorities noted by the Government in its response to the IPART report. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

Consideration in Committee ordered to stand as an order of the day.

ADJOURNMENT

The Hon. HENRY TSANG (Parliamentary Secretary) [9.37 p.m.]: I move:

That this House do now adjourn.

URALLA SHIRE LIBRARY

The Hon. CHRISTINE ROBERTSON [9.37 p.m.]: At the beginning of last month I had the honour of opening the new Uralla Shire Library on behalf of the Minister for the Arts. Uralla is located between Tamworth and Armidale on the New England Highway, and despite being a small town it is well known for its rich history. Gold was discovered in a local river in the early 1850s, and Uralla was founded as a town on 6 September 1855—150 years later, almost to the day, I was there to open its library. Uralla is well known for its association with the bushranger Captain Thunderbolt, who roamed the local area and who was shot and killed nearby—a character of mythology these days. I look forward to going back to Uralla next month to open an exhibition about the life of Captain Thunderbolt at McCrossin's Mill Museum, which the State Government has supported. The opening of the library was part of a weekend of celebrations for the town's 150th anniversary, which included also the annual Thunderbolt Country Fair and Talent Quest being moved forward from its normal November date.

The library itself is a new state-of-the-art building and is already taking pride of place among the local community. Previously the library had been housed in the old courthouse building. The total budget for the new building was more than $900,000, including $200,000provided in 2003-04 through the State Government's Library Development Grant Program. The new Uralla library is a branch of the Central Northern Regional Libraries Network, which operates other library branches in the Tamworth, Gunnedah, Liverpool Plains, Narrabri and Walcha regions. That network of libraries serves a population of 90,099 with 128,657 library visits recorded throughout the region in 2003-04.

The new library building will also be the home for Uralla Shire Council's New England Smart Communities Action Project [NESCAP]. Its office will be located in the new building. NESCAP, a Federal, State and local government jointly funded project, seeks to stimulate the take-up of broadband services within the local community. The new Uralla public library will form an important part of the public library network and the local community. It already is a gathering place and centre for community activities. It will now be open 30 hours a week, seven days a week. The new building has much more space and more than double the number of computers available at the former location and there is also a defined children's area. It is truly a community space and people's place.

The architect took into account every advantage that the site had to offer and also the climate of Uralla. Co-operation between the different tiers of government is important in helping communities like Uralla and it is important for the good government of the whole State. The funding of public libraries is an excellent example of

that co-operation. The majority of funding for public libraries comes from local government with the State Government also providing funding distributed by the State Library on behalf of the Government, following a funding formula in the legislation, and also through a discretionary grants program of library development grants.

State Government funding has increased by over 50 per cent since 1995, when the Carr Labor Government was elected, to almost $25 million in 2005-06. Current State funding arrangements for libraries include an equal payment made to each council for their use. In Uralla's case the State Government provided extra assistance by ensuring that the level of funding was not diminished following the amalgamation of councils in the area. It is a great credit to Uralla Shire Council that it received the maximum amount available under the Library Development Grants Program to assist in the construction of the new library building. The increase in assistance for public libraries provided by the State Government reflects their importance to the local community.

Libraries are not just a place to borrow books and to read; they are also an important community space, a place to meet and stimulate the imagination, and a place where people of all ages and from all walks of life can learn. Libraries play a role in education and in ensuring that information is available to all people. Their importance has only increased in this increasingly technological age where computers are the norm and a vital tool in our learning and our access to the outside world. This importance can be seen through the more than 99 million visits made to Australian public libraries each year.

Almost one-third of those visits are made in New South Wales where the public library network comprises the State Library, 373 local public libraries and 27 mobile libraries statewide. The new Uralla library, an outstanding facility, will play an important role in the Uralla community. It will help members of the community learn; it will be a place for the community to meet; and it will be a place where people can connect with the outside world. I congratulate all the people and organisations involved in the project on their extraordinary hard work. I look forward to Uralla library being used to its fullest extent in the future.

CAMDEN AND CAMPBELLTOWN HOSPITALS INDEPENDENT COMMISSION AGAINST CORRUPTION REPORT

The Hon. JOHN RYAN [9.42 p.m.]: The media release issued by the Independent Commission Against Corruption [ICAC] together with its report into the South West Area Health Service [SWAHS] on 22 November 2005 represents an outrageous attack on the integrity of Nola Fraser, one of the whistleblower nurses who brought to the attention of the public concerns about Camden and Campbelltown hospitals. After its failure to find any wrongdoing in the matter of Orange Grove I am no longer surprised by anything from the ICAC. The media release states:

> The ICAC examined numerous allegations made by current and former SWAHS employees, a large number of which were made by former nurse Nola Fraser.

The media release virtually lays all the allegations made in regard to these hospitals at the feet of Nola Fraser and then writes them off as nothing more than gossip, speculation or hearsay. It is a matter of fact that Nola Fraser was one of a number of nurses and employees who had concerns about the management of Camden and Campbelltown hospitals. Ms Fraser did not claim to make allegations. Her only claim was that she was victimised because she made authorities aware of the allegations and she expressed concern because they were not investigated. The ICAC has been selective in the evidence it has used in its report. For example, the report claims Ms Fraser alleged that the documents were shredded and computer files were wiped. That is not the case.

Ms Fraser said she was aware of an email that had been read to her by a high-ranking health official that included allegations of late night conferences being held by senior officials at Campbelltown hospital shortly after allegations had been raised about patient mistreatment in the media. She reported that a senior health department official, Victoria Walker, Director, Audit, for NSW Health, read her an email that had been written by a SWAHS employee.

The email referred to meetings, to the movement of filing cabinets and to tampering with computers. Ms Fraser said Ms Walker had not only read the email to her and to another nurse; she had also sent it to the ICAC. She never claimed to be an eyewitness. The email was the subject of questions asked during a parliamentary inquiry conducted by General Purpose Standing Committee No. 2 on 19 March 2004. In evidence to the committee Ms Walker categorically denied that that email existed or that it had been referred to the ICAC. She said:

> This is the first time I have heard about the hard drive. I have never heard about that before at all.

The ICAC report contradicts Ms Walker's evidence. On page 17 the report reveals that not only did the email exist and make reference to documents being wiped from the hard drives; it also states that after Ms Walker had been shown copies of the email she eventually conceded it was possible that she had read the email to Ms Fraser and to another nurse. The ICAC report did not state that the email was found on Ms Walker's computer after it had been impounded. The ICAC also found that the email had been opened and deleted. Clear, unambiguous evidence of a culture of cover up had been uncovered by the ICAC but not reported. The ICAC report only quotes the email in part.

Ms Fraser and others were not relying on mere gossip; at worst the evidence they relied on was hearsay. But when a senior health official tells someone that he or she has evidence in the form of an email of people deleting files from computers, any person, including Ms Fraser, is entitled to be concerned. The ICAC is supposed to be a safe haven for whistleblowers so we can be sure that substantial concerns about public misconduct are properly investigated. I suspect Ms Fraser has been targeted for special attention in this matter because she ran as our Liberal Party candidate in Macquarie Fields.

Finally, I raise a concern voiced to me by another nurse who was named and unfairly described in the ICAC report. Ms Julie Quinn, a senior nurse from Liverpool hospital, is deeply concerned that she was named by the ICAC as making allegations. She did not make any allegations; She only responded to questions from the ICAC because it contacted her. She was led to believe that her name would be suppressed. The ICAC investigator told her, "We will try to keep your identity suppressed at this stage." Not only was her identity not suppressed but her name appears several times in the final report and in the press release that inaccurately describes her as a "former nursing unit manager".

The report inaccurately states that she made allegations that the death of an elderly patient was mishandled arising from suspected neglect at a nursing home. She did not make such allegations. She was concerned that the matter had not been investigated. Her concern was that management had not investigated these concerns in a timely manner, and that is something quite different. An agency that is supposed to welcome people who come with goodwill and good intent to make allegations about public misconduct has set up one such person and traduced her in a media release. Anyone reading that report would think it was about Nola Fraser and not about the SWAHS. That agency then gave an assurance to another of its witnesses that his or her name would not be released, but the name was released several times. [*Time expired.*]

SHED A TIER CONFERENCE

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.47 p.m.]: On the weekend of 15 and 16 October 2005 the twelfth annual Shed a Tier conference will address the issue of how to abolish the States. I will be one of the speakers at that conference, which will be held at the Mingara Recreation Club, at Tumbi Umbi, on the New South Wales Central Coast. There is little doubt that it is difficult to co-ordinate the administration of Australia through three levels of government. It is now generally recognised that the current three-tiered governance model is impeding Australia's international competitiveness.

While both Federal and State governments have acknowledged that rationalisation is necessary, they have not been willing to specify which aspects of control they would be willing to give up, and a plan and timetable have been lacking. In 1990 the Economic Planning Advisory Council published a discussion paper entitled "Towards a more cooperative Federalism?", which discusses the Commonwealth-State overlap of functions and regulations. The foreword to the paper states:

> The dividing line between Commonwealth and State jurisdictions has become increasingly blurred over time, particularly with the trend away from general grant funding towards specific purpose payments, which are subject to Commonwealth supervision and monitoring.

This discussion continued in the Council of Australian Governments [COAG] and was revived in 1996 by the National Commission of Audit, which also examined the issue. In 1999 the Victorian Government set up a Federal-State relations committee of inquiry. On 20 October last year Bob Carr spoke about problems with Federal-State relations. John Howard also spoke about the issue at the Menzies Research Centre on 11 April this year, and John Brogden addressed it in June 2005.

The *Australian* newspaper of 25 November last year stated, "Dysfunctional, feral and failing: this is how federalism is described by John Howard, Tony Abbott and Peter Costello respectively." Australia suffers

from vertical fiscal imbalance—which means that the responsibility lies with one tier of government, State government, while the money comes from the Federal tier of government. The Victorian committee of inquiry pointed out that Australia has the highest degree of fiscal imbalance of any comparable federation in the world. The question is: When will the self-interest of Australian governments be set aside and the people of Australia put together a plan to resolve the problem? I have a simple plan that I will put to the conference, as follows:

Resolution:

I will ask the Conference to commit to:

1. A Reform of the Australian Constitution with

2. The abolition of the States

3. Organisation of Councils into Regional Organisations of Councils which comprise areas of common geographical and economic interest

4. Maintenance of equity for all Australians by the use of funding formulae with weightings according to need and based on factors such as the population, its geographic and demographic diversity,

5. The funding formulae for areas and population and their discussion to be totally transparent and areas with disadvantage to be addressed in an open way

The Steps to be taken for this are as follows:

1. Federal and State governments to meet via the COAG process and to arrange to have all their departments named the same with similar areas of responsibility.

2. Federal and State departments to be co-located, with the Federal departments having only a small staff in Canberra to improve Federal awareness of the practical aspects of service delivery. There would then be a staged amalgamation of these

3. Legislation to be defined by a task force as to what should be managed in Federal legislation, what should be managed by a Federal Statutory Authority, and what should be managed by Regional Councils, and what by Regional or Local Authorities. Examples are:

    a. National Statutory Authority backed by Federal legislative enforcement: Corporate regulation, Transport rules, Industrial Safety, Food standards

    b. Regional Statutory Authority: City transport, Regional planning,

    c. Federal legislation: National Criminal code

4. There needs to be reform of the Federal Senate to a system based on population.

As I said in a 2003 speech on the Australian Constitution, New South Wales would have one House of 50 seats to replace both upper and lower Houses. These seats could be based on Federal electoral boundaries and would be multi-member electorates in order to ensure balanced parliamentary representation. To take a cheap political shot, John Howard's obsessions with industrial relations reform and efficiencies at an individual business enterprise level are small beer compared with the inefficiency and misallocation of resources caused by the pre-eminence of cost shifting as a policy objective and blame shifting as a policy outcome.

Industry suffers from different legislative and administrative regimes but, as always in Australia, the target is the small man, and the big picture is not addressed. It is long past time that significant constitutional reform was discussed in Australia, and if government will not lead the discussion, it is time the people did. Please come to the seminar in Gosford.

MYSTIC INDIA

The Hon. AMANDA FAZIO [9.52 p.m.]: Last Saturday night I had the pleasure of attending the *Mystic India* launching ceremony at BAPS Shri Swaminarayan Mandir at Rosehill, which was a very important function for the Indian community. *Mystic India* is the first large-screen or IMAX format film to be made in India. *Mystic India* rediscovers India, which is a land of many mysteries and fascinations. Home of the Himalayas, India is the world's largest and oldest democracy and contains an amazing wealth of wisdom, culture and spirituality. For thousands of years many people in India have willingly left the comforts of their home and family and set off across the land in search of the secrets of wisdom and spirituality. Their aim has been to reach a deeper understanding of existence and share the meaning of life, which would elevate the rest of humanity.

Of all such journeys, perhaps none is greater than the true story of an 11-year-old child yogi, Neelkanth, who took an extraordinary journey through the wonders of mystic India. This adventure of hardships and survival, faith and fearlessness undertaken by a child is the only one of its kind in the history of mankind.

From 1792 to 1799 Neelkanth walked alone, barefoot and unclothed, 8,000 miles through the length and breadth of India. Carrying no maps, no food and no clothing, how he crossed the roaring rivers, faced ferocious animals and survived the freezing winter of the Himalayas is still a mystery. It is a story of struggle, of kindness and of courage, even when face to face with a man-eating lion!

Mystic India takes viewers through icy peaks to the cool blue Lake Mansarovar, into the wild jungles of Sunderbans and the rainforests of Assam, through barren deserts and to the silent shores of south India. Viewers can explore and learn from the majesty and mysticism of India's art and architecture, music and dance, faces and festivals, and customs and costumes, which are brought to life on the giant screen. With two shooting schedules from March to May 2003 and January to February 2004, the *Mystic India* production team travelled to more than 100 different film locations in India, at times shooting in hostile conditions at a height of 13,000 feet, re-creating the adventures of Neelkanth. The film transports the audience to some of India's most sacred and treasured destinations. The epic proportions of the film climax in the Rath Yatra—the Festival of Chariots. Colossal five-storey chariots on mammoth wheels roll past 8,000 people from all corners of India who are wearing period dress of the eighteenth century. The experience is immense and intense.

What makes the film unique and educative are the questions it answers about India, her culture and way of life. Even the silent, meditative moods transmit the simple messages of love, service and harmony, unravelling India's greatest gift to the world: its unity in diversity. BAPS, an international non-government organisation, has the rich experience of presenting Indian culture to more than 55 million people worldwide through its nine cultural festivals and three permanent exhibitions at Akshardham-Gandhinagar and Shri Swaminarayan temples in London and Nairobi. As part of its continuing activities, in early 2001 BAPS decided to make a film that would show the true wealth of India—its culture, its heritage and its wisdom—and commissioned the making of *Mystic India*.

A team of BAPS volunteers scouted more than 250 locations throughout India—from Nepal to north India to Kerala in the southern tip of India and from Gujarat to Assam, covering more than 22,000 miles. Simple things like finding a location with an isolated Banyan tree without electric cables or poles nearby took days of scouting in remote villages. This was done during scorching summers when the temperatures were often higher than 110 degrees Fahrenheit. BAPS Care International is a registered non-profit international public charity committed to serving the world by caring for individuals, families and communities. It was registered as an independent charity in 2000 after serving since 1950 under the wing of its parent organisation, BAPS Swaminarayan Sanstha, which was founded in 1907.

BAPS Care International is a respected and trusted name among social service charities. It has amassed more than 50 years of firsthand experience in initiating, managing and sustaining more than 160 humanitarian activities throughout the world in fields as diverse as medical services, educational services, environmental services, community services, tribal services, and disaster relief services. BAPS Care International works with the vision that every individual deserves the right to a peaceful, dignified and healthy way of life and that by improving the quality of life of the individual we are bettering families, communities, our world and our future. BAPS Care International's mission is to serve needy individuals, families and communities throughout the world, with a focus on India. It endeavours to provide both emergency care and long-term solutions in the areas of health, education, the environment, community development, tribal uplift and disaster relief.

BAPS Care International has been involved in helping with many natural disasters, including the Gujarat earthquake of 2001 and Hurricane Katrina and it will be involved in the emergency response to last weekend's earthquake in the Kashmir region. It assists communities to recover in the longer term by building schools, hospitals and other much-needed infrastructure. A royal world charity premiere was held in London on 7 June 2005 and, following the screening, His Royal Highness the Prince of Wales commented that he thought the film was too short. Most people complain that movies are too long these days, so such a comment should be construed as a very high recommendation for *Mystic India*.

The launching ceremony last Saturday night was most enjoyable and the hospitality shown to me and other invited guests was very kind. The most important message was that we should all celebrate our unity in diversity. I am very grateful to the organisers for asking me to attend. *Mystic India* will be screened from 9 February 2006 at the IMAX cinema, Darling Harbour, and I hope that it will have a very successful run.

UNIVERSITY OF NEWCASTLE FORTIETH ANNIVERSARY

BALI TERRORIST ATTACK

The Hon. PATRICIA FORSYTHE [9.57 p.m.]: I had planned tonight to pay tribute to the University of Newcastle on its fortieth anniversary, but the events in Bali on 1 October require me to pay a broader tribute and to speak also about the character, the soul and the spirit that is the City of Newcastle. Both events are defining in terms of the characteristics that shape the city. First, I pay tribute to the University of Newcastle. Late September marked the celebration of the fortieth anniversary of the granting of autonomy to the University

of Newcastle from the University of New South Wales in 1965. That event was the culmination of years of agitation by the Newcastle community for the establishment of a university in the city. Indeed, a feature of the history of Newcastle university is its close connection to the city and its leaders, especially in business. The university and the city owe much to the dedicated visionary leaders of the city whose advocacy in the 1940s, 1950s and 1960s could not be ignored.

The university began in March 1952 as the Newcastle University College at Tighes Hill. However, the granting of autonomy and its establishment on its Shortland site in 1965 marked the real beginnings of the university we know today. The master plan for the construction of the university envisaged an enrolment of 10,000 full-time students in 40 years. Today it has 23,000 students, a far cry from my years there from 1970 to 1973, when most students knew each other, at least by sight. Today the university is the second major employer in the city, or, as the vice-chancellor Nick Saunders said recently, "It represents the seventh-biggest city in the Hunter."

To people from Sydney the establishment of the university may seem mundane but I am sure that for anyone from Wollongong, Western Sydney or regional centres such as Bathurst or Wagga Wagga the importance of a university presence will not be underestimated. Indeed, while the university today numbers many students who are the second generation to attend university, it should not be forgotten that until the 1970s the notion of going to university upon completing school as a rite of passage was not the norm, certainly not in Newcastle.

The university, despite a strong early focus on engineering, owes much of its character to its first vice-chancellor, Professor James Auchmuty, whose Irish university background was steeped in the traditions of a classical education. The university has much about which it can be proud, not least being the accolades its outstanding medical faculty has received with its innovative problem-based approach to learning. It was a privilege to be part of the university in its beginning years and a privilege to count myself amongst its 80,000 alumni.

Newcastle is a city that cares for its own and is at its strongest when it stands united. Last week it showed its remarkable spirit. Newcastle was hit hard as a result of the terrorist attacks in Bali. Of the four Australians who died, three were from Newcastle, as were many of the injured. My sympathy goes to the families of those who lost their lives, to those who were injured, and to those others in the party of friends who had travelled to Bali for a holiday. Indeed, we should pray for all from every country who lost their lives or were injured for no reason other than being in the wrong place that night.

My thoughts are personally with Paul and Peni Anicich, who were seriously injured and are still hospitalised in Singapore. I have known Paul for many years. He is a giant in the community of Newcastle. I also pay a tribute to the Frost family, whom I have known since my school days. Dr Adam Frost was not at the Jimbaran Bay restaurant when it was hit, but he made his way to the hospital to give support to his Newcastle friends. His son Joe spoke for that group of friends in a moving tribute at the Catholic cathedral in Newcastle. Newcastle is not alone in feeling the impact but it will take special care of its own in a way that is not easily definable. Healing the scars for all those involved, their families, and schools such as Francis Xavier College will take a long time, but those involved will never feel alone. In Joe Frost's words, they will stand together and make it through.

FERGUSSON LODGE RESIDENTS

Ms SYLVIA HALE [10.02 p.m.]: Fergusson Lodge is a live-in facility run by ParaQuad for people with paraplegia and quadriplegia. The lodge, located on the former Lidcombe hospital site, was purpose built and provides 24-hour care. In 1993 the New South Wales Government identified Fergusson Lodge as not complying with legislated disability standards because it is a large, congregate-care facility. In the period since, little has been done to upgrade the facility or to ensure that the lodge provides an appropriate standard of accommodation to replace its shared bedrooms and communal bathrooms. Despite the limitations of the facility, a high level of care is provided and the 26 residents and the employees who work there are proud to be involved with Fergusson Lodge.

In recent years ParaQuad has been working to establish new facilities as part of its More Than A Roof accommodation program. However, ParaQuad has said that any upgrade of the facilities would involve selling the current site to Australand for redevelopment and building a number of new facilities elsewhere. Understandably, residents are reluctant to be forced into moving. In all consultations, residents have

unanimously indicated that they do not wish to move. Despite this, residents have been told that by Christmas this year they may be shifted against their will to a new facility in Callan Park. Residents are alarmed by this suggestion. The State Government owns the Fergusson Lodge site and ParaQuad has a 99-year lease over it, but developer Australand is interested in buying and redeveloping the land. ParaQuad says it does not have the money to upgrade Fergusson Lodge to meet Department of Aged, Disability and Home Care regulations.

Moving the residents of Fergusson Lodge to Callan Park would be highly problematic for a number of reasons. The site is manifestly unsuited for people in wheelchairs because it is hilly, and electric wheelchair batteries would be quickly worn out coping with the slope. It would also contravene the Callan Park Trust Act, which prohibits any building exceeding the footprint of the existing Rozelle hospital. Moreover, the facilities at Callan Park are vastly inferior to those currently available at Fergusson Lodge. Residents of Fergusson Lodge say they are happy where they are.

I have visited the lodge and was impressed by the camaraderie that exists among the residents and the integration of residents into the broader community. Some of them have been at the lodge since it opened in 1979. Obviously, residents would be happy if they could be upgraded to private rooms with ensuite bathrooms, but not at the cost of moving across Sydney and breaking up their community. ParaQuad has told them they may have to leave the lodge and live in the community. But residents believe they are a community, and have extensive connections with the surrounding Lidcombe community. Residents wrote to the board of directors of ParaQuad on 27 September, reaffirming their wish to remain at Fergusson Lodge. They moved the following motion that was adopted unanimously:

> We, the residents of Fergusson Lodge, state our intention to refuse to undergo an assessment process outlined as part of the plan to replace the current facility at Fergusson Lodge with two state of the art facilities also proposed to be on the old Lidcombe Hospital site and request the following written assurances from the board:
>
> 1) That all residents who so desire shall be given a place at the new Lidcombe facility as a continuation of our current agreed permanent residency, with no resident being forced to move to other facilities against their will.
>
> 2) That the medical care and other services received by residents who choose to move to the new facility are equal to or superior to the 24-hour care provided at the current facility.
>
> 3) That all residents be fully involved in the planning process for the proposed new facility, including the positioning of the facility and the design of the building, to allow it to best meet our long term needs.
>
> 4) That those residents who choose to move to other forms of community based care are given the greatest possible support, and receive the level of care they feel is adequate for them if they move into this form of care.
>
> 5) That the residents not be split up or separated from their current community against their will.

The Construction, Forestry, Mining and Energy Union has assisted residents by placing an interim green ban on any move to evict residents and demolish Fergusson Lodge. One of Premier Morris Iemma's first commitments upon being elected leader was to make progress in assisting people with a disability, describing it as a matter of simple decency. Now is his opportunity to do something meaningful. The State Government should provide funds to upgrade Fergusson Lodge; and Australand, which will make a substantial profit from its development at the adjoining Lidcombe Hospital site, should assist.

Motion agreed to.

The House adjourned at 10.07 p.m. until Wednesday 12 October 2005 at 11.00 a.m.