

LEGISLATIVE COUNCIL

Wednesday 6 April 2005

The President (The Hon. Dr Meredith Burgmann) took the chair at 11.00 a.m.

The Clerk of the Parliaments offered the Prayers.

AUDIT OFFICE

Report

The President tabled, pursuant to the Public Finance and Audit Act 1983, a performance audit report of the Auditor-General entitled "Managing Air Quality: Department of Environment and Conservation", dated April 2005.

Ordered to be printed.

PRIVILEGES COMMITTEE

Reference

Motion by the Hon. Peter Primrose agreed to:

That the Privileges Committee inquire into and report on appropriate protocols to be adopted for the execution of search warrants on members' offices by law enforcement agencies and investigative bodies, and in particular the procedures to be followed:

- (a) in obtaining a search warrant,
- (b) prior to executing a search warrant,
- (c) in executing a search warrant,
- (d) if privilege or immunity is claimed, and
- (e) for the resolution of disputed claims of privilege.

BRIGALOW BELT SOUTH BIOREGION

Production of Documents: Order

Motion by the Hon. Rick Colless agreed to:

That, under standing order 52, there be laid upon the table of the House within seven days of the date of the passing of this resolution the following documents in the possession, custody or control of the Minister for Infrastructure, Planning and Natural Resources, the Department of Infrastructure, Planning and Natural Resources (DIPNR), the Minister for the Environment, the Department of Environment and Conservation, the Minister for Primary Industries, the Department of Primary Industries, State Forests, The Cabinet Office, and the Native Vegetation Reform Implementation Group:

- (a) all reports or assessments, including draft reports or assessments, prepared by the Rt Hon. Ian Sinclair concerning options for management of the Brigalow Belt South Bioregion,
- (b) all documents and correspondence relating to the reports and assessments referred to in paragraph (a), and
- (c) any document that records or refers to the production of documents as a result of this order of the House.

UNPROCLAIMED LEGISLATION

The Hon. John Hatzistergos tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 5 April 2005.

PETITIONS

Crown Land Leases

Petitions requesting the withdrawal of changes to the rental structure of Crown land leases, particularly enclosed road permits, received from **the Hon. Rick Colless** and **the Hon. Duncan Gay**.

Clothing Industry Worker and Employer Protection

Petition opposing exploitation of clothing industry workers, and requesting protection of small clothing businesses, received from **the Hon. Dr Peter Wong**.

M4 Eastern Extension

Petition rejecting the options for the M4 eastern extension and requesting a study of and commitment to sustainable public transport, including heavy and light rail, as part of an integrated transport network, received from **Ms Lee Rhiannon**.

Casino to Murwillumbah Rail Services

Petition requesting the reinstatement of rail services from Casino to Murwillumbah, received from **the Hon. Catherine Cusack**.

Sexuality-based Discrimination

Petition requesting leadership in opposing sexuality-based discrimination, received from **Ms Lee Rhiannon**.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 1 and 2 postponed on motion by the Hon. Tony Kelly.

INDEPENDENT COMMISSION AGAINST CORRUPTION AMENDMENT BILL

Second Reading

Debate resumed from 2 March 2005.

Reverend the Hon. FRED NILE [11.12 a.m.]: I agree with the Government that the Independent Commission Against Corruption Amendment Bill is necessary as a result of the inquiry established into the Independent Commission Against Corruption [ICAC] and its important recommendations concerning areas that need to be changed in the ICAC. The proposals include a clarification of the principal objects of the Act, as set out in schedule 1 [1] to the bill as follows:

The principal objects of this Act are:

- (a) to promote the integrity and accountability of public administration by constituting an Independent Commission Against Corruption as an independent and accountable body:
 - (i) to investigate, expose and prevent corruption involving or affecting public authorities and public officials, and
 - (ii) to educate public authorities, public officials and members of the public about corruption and its detrimental effects on public administration and on the community, and
- (b) to confer on the Commission special powers to inquire into allegations of corruption.

The area of controversy about which there has been confusion relates to the powers of the ICAC not only to investigate but also to prosecute. I remember previous discussions concerning the ICAC in which criticism was made that material supplied to the Director of Public Prosecutions [DPP] from the ICAC was not in a form

suitable to be used in a prosecution. In other words, there has been tension between the ICAC and the DPP about the fact that the ICAC has wide powers to accumulate a great deal of material from its investigations—matters relating to hearsay and matters acquired through inquiries—that may not be in a form that can be used in a criminal prosecution by the DPP.

In my opinion the best way to resolve that tension is to take away from the ICAC its powers of prosecution and to leave those powers with the Director of Public Prosecutions. The Christian Democratic Party will support the amendments foreshadowed by the Opposition that seek to remove the ICAC's prosecution powers. Normally bodies do not have the power to investigate as well as the power to prosecute, and it seems wise to separate those two elements of the ICAC. The ICAC will be able to continue its role of investigating and accumulating evidence, but the evidence it presents must be in a form suitable for a successful prosecution by the DPP.

I also understand that in the past there has been criticism about the prioritising of matters by the DPP. In other words, when the ICAC conducts investigations and believes it has accumulated very good evidence it forwards it to the DPP, but the DPP, under pressure with other cases, puts the ICAC matter low on its list of priorities. My recommendation to the Government to resolve that is to examine staff levels in the Office of the Director of Public Prosecutions and, if necessary, set up a unit within that office to deal directly with matters referred to it from the ICAC. In other words, instead of matters from the ICAC being lost in the multitude of cases the DPP is dealing with, they will be sent to a special unit within the DPP. There would be close co-operation between the ICAC and that unit to ensure that the unit gets suitable evidentiary material from the ICAC so the prosecution proceeds. The Director of Public Prosecutions would argue that he is already under considerable budget pressures and ask, "From where will the funding for the unit come?" I recommend that the Government consider allocating additional funds specifically to assist the DPP to set up a special unit to handle referrals from the ICAC. That would reduce a lot of the tension between the ICAC and the DPP.

The amendments foreshadowed by the Opposition raise the question of whether the ICAC should have the same protection as courts and judges in relation to contempt. The bill will reduce the use of contempt in regard to the ICAC. All honourable members realise that this review arose out of previous matters involving the Premier that brought to a head the question of the power of the ICAC to call persons before it if it alleges they are guilty of contempt. The bill seeks to diminish that contempt power of the ICAC. The Opposition amendment would preserve the current contempt powers in their full extent, so the commission could use those powers when it considered it necessary to do so. The dilemma for crossbench members is whether to support the Opposition amendment. This is an important amendment proposed by the bill, and I gather the Government regards it as important. The Government amendment to which I am referring is found in item [48] of schedule 1 to the bill. It amends section 99 of the Act, headed "Punishment of contempt", by omitting subsection (2) and replacing it with a new subsection (2) that provides:

The Commissioner may present to the Supreme Court a certificate ... in which the Commissioner sets out the facts that constitute the alleged contempt.

So the Government amendment still allows provision for contempt, but it is in the nature of the commissioner presenting a certificate to the Supreme Court. The Opposition seeks to delete item [48], which would leave the powers of the commission as they exist now—status quo. The Christian Democratic Party will not support the Opposition amendment, but it will support the Government's position on this issue. However, we will monitor the operation of the new provision, and if by chance there is any indication of increased attacks on the ICAC or its commissioners, or on persons giving evidence before the commission, the Christian Democratic Party would support a review of the provision to consider whether there is a need to strengthen the powers of the ICAC regarding contempt issues.

I have drafted an amendment, which I hope the House will support. It relates to the power of the Independent Commission Against Corruption regarding members of Parliament. I note that the report of the inquiry into the ICAC recommended various procedures to deal with complaints against members of Parliament that may involve alleged corruption or alleged abuse of their allowances. As honourable members know, such matters have been before ICAC previously. Three matters come to mind that I believe had a political overtone or motivation. One related to former Premier Greiner. As we know also, the Supreme Court overturned that ICAC decision.

When the Independent Commission Against Corruption makes a decision that is overruled by the Supreme Court, apparently the commission has no power to rescind any decision it has made that has been invalidated by a Supreme Court decision. That anomaly is not dealt with in this amending bill, and the

Government should consider how to ensure that the record of the ICAC conforms with decisions of the Supreme Court, because at the moment it seems they are in conflict. The commission claims it does not have the power to rescind a decision it has made.

The other two cases involved a former member of this House, the Hon. Malcolm Jones, and a current member, the Hon. Peter Breen. It has been said, and I believe there is some truth in the statement, that an element of political motivation was involved in the making of the complaints against those persons. That is one of my concerns about referring complaints against members of Parliament to the Independent Commission Against Corruption. An allegation against a member of Parliament can be made for purely political reasons, such as to damage the reputation of a member who is regarded as a political opponent. It could be a member of The Nationals or the Liberals wanting to damage the reputation of a Labor member, a Labor member wanting to damage the reputation of a member of The Nationals or the Liberal Party, or any of those members wanting to damage the reputation of a crossbench member.

All members of Parliament are very vulnerable under current procedures. The complaint to ICAC against a member can be anonymous, as I understand happened in the case of the Hon. Peter Breen. Someone can make an anonymous complaint, ICAC will launch an inquiry into the complaint, some adverse publicity will follow and, irrespective of whether the member is cleared, great damage is caused to his or her reputation.

The dilemma is how to deal with complaints against members of Parliament. It is for such reasons that I believe complaints against members are in a different category from complaints against members of the public or public officials. Those employed in government agencies are not in the same sensitive position as members, because some criticism of them will not affect re-appointment to their positions. Members of Parliament are in a sensitive position regarding their political futures, which can be damaged—I believe certainly would be damaged—if allegations against them are referred to the ICAC.

How does one deal with these cases? I know the Government was very sensitive about this issue, as were the Coalition parties, simply because any attempt to put members of Parliament into a separate classification could attract criticism from the *Daily Telegraph* or other sections of the media. One could imagine the media saying, "Parliament is prepared to attack corruption everywhere except within its own ranks." Thus, Parliament itself would be open to criticism. For that reason, the recommendations made by the inquiry into the ICAC—recommendations that I believe would have been helpful if they had been incorporated in legislation—were not followed up by the Government.

I have given some consideration to how this issue could be dealt with, and as a result I have drafted an amendment, which I understand will be available for distribution in a few minutes. I have tried to work out a formula and include it as an amendment to the bill to resolve some of the matters that affect members of Parliament. It does not in any way seek to thwart various agencies pursuing a member of Parliament if the member is guilty of corruption. I am not trying to devise a way to protect allegedly corrupt members of Parliament. Rather, I am trying to work out a procedure to deal with an allegation against a member of, say, misuse of stamps in an office, or of a travel allowance, or any matters affected by what I call the members' guide, the very thick document that all members receive.

As a result of the way the ICAC and the Parliament operate, members have a guide as a measuring rod for their parliamentary activities, and ICAC can conduct investigations into even the misuse of a dozen stamps by a member. But that seems to be a waste of resources of the ICAC and unnecessary humiliation for the member involved: it is unlikely that any member would deliberately misuse parliamentary funds or resources. In many cases our parliamentary staff ask us to sign a document to cover the purchase of stamps and other items. We sign the document, it goes to the Clerk and we are reimbursed. There is an element of trust between members of Parliament and their staff who handle these relatively minor administrative matters.

My amendment proposes that the Clerk investigate a member and the member's claims as they relate to the members' guide, if the Clerk becomes aware of an allegation or if the Clerk is concerned about a matter. The person who initially deals with complaints against a member of Parliament as they relate to the members' guide will be the Clerk. However, I do not know whether the Clerk wants that responsibility. The Clerk drafted the guidelines and the Clerk understands them. A new member, through ignorance, could breach one of the hundreds of minute rules in the members' guide. If this breach is brought to the attention of the Clerk by other members of the Legislative Council office or other members of Parliament, the Clerk can discuss it with the member to determine whether it was a misunderstanding rather than a deliberate attempt to dishonestly obtain money from the Parliament. If the member acknowledges the mistake and agrees to follow the procedure set out

in the members' guide the Clerk may be happy to resolve the matter administratively. The Clerk may want to discuss it with the President at one of their regular meetings, and I have no problem with that.

If the Clerk, after discussion with the member, determines that the member deliberately and falsely claimed an allowance for travel or other reimbursement to which the member is not entitled, the Clerk, with the co-operation of the President, would bring that matter to the House for referral to the Standing Committee on Parliamentary Privilege and Ethics. In 99.9 per cent of cases the Clerk, having conducted the initial investigation, would find no deliberate intention and the matter would be resolved. The privileges committee would then investigate the alleged abuse to determine the member's intentions. If the privileges committee acknowledges that mistakes were made and the member did not act deliberately, it would recommend to the House that no action be taken. But if the privileges committee determines that the member acted deliberately to abuse allowances as they relate to the members' guide it would recommend that the case be referred to the ICAC.

The chain of events would be the Clerk, the privileges committee and then the ICAC. Currently the chain of events starts at the ICAC and it may come down the line, but that is unlikely. We are using a big hammer to crack a small nut. I have had lengthy discussions with Parliamentary Counsel about drafting an appropriate amendment. In their wisdom Parliamentary Counsel has produced such an amendment, which may sound strange and wordy on first reading, but Parliamentary Counsel understand that it is best to cover every aspect. The amendment I will move in Committee will affect everyone in this House and we should give it due and careful consideration. I was particularly concerned with the Legislative Council but the bill affects Parliament as a whole, therefore the amendment must relate also to the other place. The amendment I will move states:

Page 5, schedule 1. Insert after line 27:

[16] Section 20AA

Insert after section 20:

20AA Investigations concerning certain conduct of members of Legislative Council and Legislative Assembly

- (1) Either House of Parliament may, by resolution, refer to the Committee of the Legislative Assembly or Legislative Council established under the name of the "Standing Committee on Parliamentary Privilege and Ethics" any matter regarding the alleged use of allowances by, or other conduct of, a member of the Legislative Assembly or Legislative Council that appears to be in breach of the Members' Guide and in respect of which the House has received a report from the Clerk of the Legislative Assembly or Clerk of the Legislative Council.
- (2) A Committee to which a matter is referred under subsection (1) is to enquire into and report on the matter, as directed by the House that referred it.
- (3) The Commission must not commence to investigate, and if investigating must discontinue the investigation of, any matter that involves the same, or substantially the same, subject-matter as a matter that has been referred to a Standing Committee under this section.
- (4) In this section, *Members' Guide* means the guidelines for the appropriate use of entitlements, facilities and services set out in the document known as the Members' Guide issued by the Clerk of the Parliaments from time to time.

This is my attempt to resolve a major problem that arose during the inquiry and to follow up on a recommendation. Neither the Government nor the Opposition were sure how to deal with it and whether follow-up action on the recommendation would be misinterpreted by the media as giving special protection to members of Parliament. The amendment takes away none of the ICAC's powers, but it makes clear the procedure to be followed in matters that affect members of Parliament in areas that are covered by the members' guide. It has absolutely no effect on any other areas of corruption. If a member is alleged to have taken a bribe, has been paid to ask questions in Parliament or is involved in any other form of corruption, that member would be dealt by the ICAC in the same way it deals with any other members of the public service in New South Wales. It does not provide members of Parliament with any special protection but outlines procedure to be followed when the requirements of the members' guide have been breached. We do not get many opportunities to amend the ICAC legislation. If we do not accept the amendment we will remain in limbo.

I urge both the Government and the Opposition to give serious consideration to the amendment I have proposed. I suggest that the amendment could be accepted subject to a review of its operation. It may be that at some point in the future there will be a need to amend the legislation. I believe the amendment is a way of resolving a very important matter that affects the lives of the each member of this House and each member of the other place.

Reverend the Hon. Dr GORDON MOYES [11.40 a.m.]: The objectives of this bill are to amend to the Independent Commission Against Corruption Act and to implement certain recommendations of the independent review of the Independent Commission Against Corruption Act conducted by Mr Bruce McClintock, SC. I commend the bill to the House. In 2004 the parliamentary Committee on the Independent Commission Against Corruption recommended an independent judicial review of the Act. The Government accepted the committee's recommendation. Consequently the Hon. Jerrold Cripps, QC, commenced the review, which was completed by Bruce McClintock, SC, on 31 January 2005. One of the main objectives of the review was to determine whether the terms of the Act remain appropriate. Bruce McClintock, SC, recommended an array of changes that are targeted toward improving the operation and accountability of the ICAC.

The bill implements most of the recommendations proposed by Mr McClintock, SC, one of which was that a parliamentary investigator should be appointed to deal with minor allegations involving members of Parliament. The Government decided not to take on board that recommendation. I consider the recommendation has pros and cons. On the one hand, the investigation of minor allegations may take up valuable time of the commission and could be adequately dealt with by a special officer, but on the other hand it may be easy to see the administrative and practical burdens that this may impose upon the Government. The foreshadowed amendment mentioned by Reverend the Hon. Fred Nile provides for investigation by the Clerk of the Parliaments and the Legislative Council's Privileges Committee before referral to the ICAC and the Director of Public Prosecutions [DPP] upon failure of members of Parliament to fulfil all the requirements of the members' guide. I will discuss this in more detail at the Committee stage.

The main thrust of the changes introduced by the bill is commendable. For example, the bill allows for an increase in accountability by establishing an independent inspector of the Independent Commission Against Corruption modelled on the inspector of the Police Integrity Commission. There are some gaps that will be filled by an Inspector of the Independent Commission Against Corruption. Importantly, one amendment entrenches specific objectives of the Act. This is important because the objectives define the manner in which the ICAC exercises its functions under the Act. The objectives provide a guidepost for the exercise of the ICAC's powers. Significantly, section 31 of the Act will be amended so that the ICAC will be required to consider a number of factors when deciding whether it is in the public interest to hold a public inquiry. For example, the ICAC will consider the benefit of making the public aware of corrupt conduct, the seriousness of the allegation, any risk of undue prejudice to a person's reputation, and whether the public interest in exposing the matter is outweighed by the public interest involved in preserving the privacy of the persons concerned.

Accountability of the ICAC is also strengthened in amendments to section 76 of the Act that will require the ICAC to include in its annual report additional information about the time taken to deal with complaints. This information will be able to be used by the inspector and the parliamentary joint committee to examine issues of delay in the completion of ICAC investigations. Lastly, but importantly, I mention that I am aware of the concerns relating to the prosecutorial powers of the ICAC and the reform of contempt laws as outlined by Reverend the Hon. Fred Nile. But these are only some of the vast number of changes to be introduced by the bill. On balance, the Christian Democratic Party supports the bill. There needs to be a special unit of the DPP to liaise with the ICAC to handle prosecutions under the criminal law. As all honourable members would be aware, the ICAC admits evidence that is not admissible under criminal law, and that matter needs to be sorted out.

In relation to amendments relating to contempt, the Christian Democratic Party will wait to see whether there are attacks on some cases brought before the ICAC. The ICAC has been used politically, which was not its original purpose. The bill will reduce the ICAC's powers on the issue of contempt. The Christian Democratic Party will support the Government's bill rather than the Opposition amendment.

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) [11.44 a.m.], in reply: The Independent Commission Against Corruption [ICAC] is an important institution in New South Wales for promoting honesty and integrity in public administration. The capacity and willingness of the ICAC to independently investigate allegations of corruption contribute to its high standing within the community. Several honourable members referred to prosecution and contempt during the debate. I propose to clarify the effect and purposes of various proposals before the House. First I will clarify the respective roles of the ICAC and the Director of Public Prosecutions [DPP] with respect to prosecutions arising from ICAC investigations.

Currently the ICAC commences criminal proceedings arising from its investigations. The DPP then takes over the prosecution. The ICAC commences the proceedings because the DPP does not. As a matter of

practice, the ICAC consults with the DPP before commencing proceedings. The ICAC relies on the common law to commence criminal proceedings. There is no specific provision in the Independent Commission Against Corruption Act that authorises or prevents the ICAC from instituting criminal proceedings. The Police Integrity Commission operates in the same way. Under proposed section 116A the ICAC will be able to initiate criminal proceedings only if the DPP advises that it is appropriate to do so. The DPP will still take over and conduct the prosecution. The purpose of this amending bill is to restrict the ICAC's current power to commence proceedings without the approval of the DPP.

I turn now to contempt. The bill repeals section 98 (h) of the Act, which prohibits any conduct that would amount to contempt of a court of law. The effect of this amendment will be to relax the restrictions on public comments that can be made about the ICAC. This reform was proposed by Mr McClintock and is supported by the ICAC. The Australian Law Reform Commission recommended similar reforms in its comprehensive examination of the law on contempt. The use of this type of provision to protect investigative tribunals has been resoundingly criticised by the courts, law reform commissions and senior lawyers. The law of contempt unfairly stifles public debate when it prohibits publications that do not pose a threat to particular proceedings. It is inappropriate and impractical to transpose to an administrative investigative body a provision that is designed to prevent interference with the administration of justice by the courts. The ICAC is an investigative body. It is not a court.

ICAC inquiries are conducted by professionally trained and eminent members of the legal profession whom no reasonable person would imagine could be susceptible to influence from media reports. The ICAC has extensive powers to protect the integrity of the evidence of the witness by holding its investigation, or part of its investigation, privately or by making non-publication orders. In contrast to that, courts generally are required to conduct all their business in public. Contempt by publication is rarely invoked by the courts. When it is used, it is generally to protect decisions made by a jury or a sentencing judge. These situations do not apply to the ICAC. Furthermore, public interest in, and discussion of, the subject matter of a public inquiry conducted by the ICAC is likely to enhance the ICAC's investigation. This is particularly so when an investigation that has been conducted by the ICAC considers whether laws need to be changed or whether the methods of work, practices and procedures facilitate the occurrence of corrupt conduct.

The ICAC has far greater capacity than courts have to enter the public domain to rebut misrepresentations, inaccuracies and prejudicial comment. There are alternative methods of protecting the ICAC that do not curtail freedom of speech. Through robust public statements and directions, the ICAC has the power to protect witnesses and the integrity of its investigations. In addition, the Act contains numerous criminal offences that can be relied upon by the ICAC to protect its witnesses and its investigations. The bill extends the protection given to witnesses and other participants in an ICAC investigation by expanding the range of criminal conduct that may be prosecuted under the Act. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Ms LEE RHIANNON [11.53 a.m.]: I move:

Page 5, schedule 1. Insert after line 11:

[12] Section 14 Other functions of the Commission

Insert after section 14 (3):

- (4) The other functions of the Commission include carrying out a program of pro-active, random, fraud detection audits of the use by members of the Legislative Assembly and Legislative Council of auditable allowances. In exercising this function, the Commission may use the services of, or consult with, any person or body the Commission thinks appropriate.

The Greens have moved this amendment because the Government has not responded to the ICAC recommendations arising from recent investigations into members of this House. Many recommendations are worthy of consideration. The Greens were concerned that the Government, in bringing forward the bill, has not

given attention to some key recommendations. The ICAC proposes developing a program of audits of members of Parliament focused on proactively detecting abuse of entitlements. The ICAC argued that the creation of a program of proactive random fraud detection audits, even if not numerous, would provide an effective incentive against corruptive behaviour, given their random nature.

One would have to wonder why the Government did not respond to that proposal. Why would such a sensitive proposal not be adopted in the bill? Why has the Government not advocated it and brought it forward today? It is certainly worth contemplating. It appears that, once again, the Government is wary of putting its own practices under the spotlight. I believe that all members should support the Greens amendment, because otherwise the question is: What is the problem, what does the Government have to hide? As members, we are still able to carry out our work; we are still entitled to the position of privilege that comes with working in this place. However, clearly there would be an incentive—which I believe is needed—to do the right thing. I argue also that a government as populist as the Carr Government should recognise that, but at the moment it seems to have its head in the sand and is not taking on board some of the well-thought-through recommendations of the ICAC. Therefore, the Greens have drafted this amendment and urge members to support it. I commend the amendment to the Committee.

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) [11.55 a.m.]: The Government opposes the amendment. The conduct of those audits is not a proper role for the ICAC; it would distract the ICAC from its core function of investigating serious allegations of corruption. Ms Lee Rhiannon informed the Committee that this amendment would implement a recommendation made by the ICAC. Yet the recommendation by the ICAC was for the parliamentary administration to consider developing a program of random audits into the use of members' auditable allowances. The ICAC has not asked for that function. Members' auditable allowances are subject to internal audit by Parliament and external audit by the Auditor-General. Obviously, the police will investigate allegations of fraud.

Amendment negatived.

The Hon. PETER BREEN [11.56 a.m.], by leave: I move Reform the Legal System amendments Nos 1, 4, 5, 7 and 8 in globo:

No. 1 Page 5, schedule 1. Insert after line 21:

[15] Section 20 Investigations generally

Omit section 20 (4).

No. 4 Page 12, schedule 1. Insert after line 30:

[24] Part 6 Operations Review Committee

Omit the Part.

No. 5 Page 18, schedule 1. Insert after line 9:

[59] Section 111 Secrecy

Omit "is or was a member of the Operations Review Committee" from section 111 (1) (c).

Insert instead "was a member of the Operations Review Committee constituted under this Act immediately before the amendment of this paragraph by the Independent Commission Against Corruption Amendment Act 2005".

No. 7 Page 22, schedule 1. Insert after line 26:

[66] Schedule 2 Provisions applying to appointed members of Operations Review Committee

Omit the schedule.

No. 8 Page 23, schedule 1 [67]. Insert after line 35:

16 Abolition of Operations Review Committee

A person who ceases to hold office as a consequence of the repeal of Part 6 by the amending Act is not entitled to any remuneration or compensation for loss of office as a member of the Operations Review Committee.

These amendments relate to the Operations Review Committee, which was set up under the ICAC legislation and meets every two months. Members of that committee are presented with about 700 pages of material for each meeting. That committee is literally drowning in paper. In the 12 months to 30 June, the Operations Review Committee had input into just 149 matters; that is, 8 per cent of the 1,807 matters examined by the ICAC. On numerous occasions that committee has demonstrated that it does not exercise any review, control or restraint over the ICAC. It is simply a bureaucratic body that rubber-stamps matters that the ICAC decides to investigate, or other matters which the ICAC determines need to be examined under certain guidelines or terms of reference.

I suggest that that committee serves no useful purpose under the bill. Mr McClintock, SC, recommended that it be abolished and in the same breath he recommended that an Inspector of the ICAC should take over in the same manner as the Inspector of the Police Integrity Commission. The Government seems to be adopting one of Mr McClintock's recommendations but not the other. The ICAC simply does not need to review bodies. What is needed is either an inspector or an Operations Review Committee that operates as the bill intends—both are not needed. I cannot imagine what the cost of that committee would be: it consists of seven or eight high-profile community members who, I believe, would be better engaged in other activities. The Operations Review Committee, as it stands, ought to be abolished. My amendments Nos 1, 4, 5, 7 and 8 seek to do just that.

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 [12.00 p.m.]: The Government opposes the Reform the Legal System amendments. The Operations Review Committee provides the Independent Commission Against Corruption [ICAC] with advice about whether to discontinue or not conduct investigations—an important accountability mechanism for the ICAC. The Government also opposes the proposal to remove the ICAC's power to seek a search warrant to search the office of members of Parliament. The issues that arose in the case of the honourable member were resolved by administrative means. An amendment to the Act is not required.

Amendments negatived.

Pursuant to sessional orders consideration interrupted, progress reported from Committee and leave granted to sit again.

QUESTIONS WITHOUT NOTICE

GRAIN LINES INFRASTRUCTURE ADVISORY COMMITTEE BRANCH RAIL LINE CLOSURE REPORT

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Roads. Did the Roads and Traffic Authority commission Sheldon Consulting Pty Ltd to critically examine the report of the Grain Lines Infrastructure Advisory Committee into the 15 restricted branch lines following a number of methodology and data inconsistencies? Did the report indicate that both the State Government, through the Roads and Traffic Authority, and local councils would have to increase road funding because of his decision when he was Minister for Transport Services to close branch lines? Will the Minister, as Minister for Roads, release this taxpayer-funded report in its entirety so that local communities can be fully informed about the impact of the Minister's previous decision to close branch lines?

The Hon. MICHAEL COSTA: I took no previous decision to close any branch line.

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

CHILDHOOD OBESITY

The Hon. IAN WEST: My question without notice is directed to the Minister for Education and Training. Will the Minister update the House on efforts that are under way to promote healthy eating and combat childhood obesity in our schools?

The Hon. CARMEL Tebbutt: Childhood obesity is a significant issue. The Government has placed a great deal of importance on tackling this issue by improving the healthiness of the foods and drinks

available in schools across New South Wales. In the 10-year period from 1985 to 1995 the level of the combined overweight and obese categories in Australia more than doubled, while the level of obesity tripled in all age groups and for both sexes. These are concerning trends partly because of the health effects on children but also because of the effects that potential lifelong obesity will have on their life expectancy and quality of life.

In 2002 the Childhood Obesity Summit passed a resolution calling for stronger measures to ensure the sale of healthier foods in school canteens. The Prevention of Overweight and Obesity in Children and Young People: Government Action Plan 2003-07 was developed following the Summit. A key initiative within that plan is the New South Wales healthy school canteen strategy branded "Fresh Tastes @ School." Following the Summit, NSW Health and the Department of Education and Training established the School Canteen Advisory Committee. The target implementation date for this strategy for all government schools was term one in 2005. Schools in the non-government sector are also encouraged to adopt the strategy.

The strategy identified foods that can be sold on a regular basis and those that need to be limited in their availability. This is about a balanced approach; it is not about denying children access to foods that they particularly enjoy. We recognise that these sorts of foods should be eaten only on limited occasions. Included in the strategy is a canteen menu planner, a visual model designed as a colourful food spectrum. It consists of three main segments—green, amber and red. The green or "fill the menu" segment includes foods that should be encouraged and promoted, such as fruit and vegetables, breads and cereals and reduced fat dairy foods. The amber or "select carefully" segment includes foods that should not dominate the menu and avoids large serve sizes of most of the processed foods. The red or "occasionally" segment includes foods that should be limited in their sale because they are too high in saturated fat, salt or sugar.

In 2004 practical user-friendly resources were distributed to all schools in New South Wales. The first was the canteen menu planning guide that describes how to use the model, and the second which is entitled "Fresh Tastes Tool Kit" supports schools as they plan, promote, manage, implement and review their fresh tastes canteen. The New South Wales School Canteen Association, a key partner in the fresh tastes strategy, listed in excess of 900 products in its March 2005 canteen buyers' guide. This makes healthy choices easy choices for school canteens. Food expos are being held throughout the year with record attendance by canteen staff. The food industry has supported school canteens by providing healthier choices in vending machines and by providing equipment such as bench top and glass door refrigeration and heating appliances that make the promotion of healthier choices of foods and drinks easier for canteens.

A six-hour fresh tastes training course developed in conjunction with TAFE also provides an opportunity for canteen staff to gain practical skills and knowledge to implement the strategy successfully. There are many examples of school communities that have embraced the strategy and that are discovering positive outcomes. Canteens are reporting that more varieties of salad rolls and wraps, sushi and fresh fruit salad have been well received by students. At Kiama High School, for example, chilli chicken wraps, hamburgers with lean meat patties, hot potatoes filled with interesting toppings, caesar salads and pasta dishes are popular choices with students. Bellbrook Public School is now conducting a parent training program. All these initiatives encourage healthy eating in our schools.

BRIGALOW BELT SOUTH BIOREGION AND NANDEWAR BIOREGION

The Hon. DUNCAN GAY: My question without notice is directed to the Minister for Primary Industries. Does the Minister recall his correspondence to timber millers and the comments he made to people during his recent visit to Tamworth and Gunnedah that it was the Government's intention to make a decision on Brigalow and Nandewar before the end of March this year? Is he also aware that people are losing their jobs and businesses are going bankrupt because a decision is yet to be made? In case the Minister is unaware, it is now almost one week past the Government's promised date. When will the Minister make this announcement?

The Hon. IAN MACDONALD: Soon.

CAPE BYRON MARINE PARK

The Hon. JON JENKINS: My question without notice is directed to the Minister for Natural Resources. I refer to the Cape Byron Marine Park and ask the Minister to provide advice in relation to the following issues. On 22 March, in an answer to a question without notice, the Minister referred to the stakeholders with whom he had consulted. To which stakeholders was he referring? Has he or have staff from

his office met with environmental groups such as the Nature Conservation Council, the National Parks Association or other such lobby groups? Has the Minister or staff from his office received any requests from fishing clubs, community groups, and industry associations such as the Boating Industry Association, the fishing tackle industry, tourism or other such bodies? Has the Minister refused or declined to meet with any of those groups? Has the Minister not acknowledged a request to meet any of those groups? If the Minister has refused or declined or not acknowledged such a request to meet those groups, why has he done that?

The Hon. IAN MACDONALD: I am not aware of anyone declining to meet any organisation. I have met quite a few organisations, including one of the great sources of information to the honourable member in Byron Bay. I have had a number of meetings relating to these issues. I have read extensively about these issues. The Government is considering the final steps in the process, that is, to define precisely the sanctuary zone in the near future.

GEOGRAPHICAL NAMES BOARD

The Hon. KAYEE GRIFFIN: My question is addressed to the Minister for Lands. Will the Minister please update the House on the work of the Geographical Names Board?

The Hon. TONY KELLY: The Geographical Names Board, established in 1966, is responsible for the official naming and registration of geographical names in New South Wales. I particularly remember its establishment in 1966 because I worked in the transfer branch of the Department of Lands at the time and one of my colleagues, Clive Joachim, became the first secretary of the Geographical Names Board. I believe he later worked in the lower House of the New South Wales Parliament.

The names that we give to places and features are an important part of our identity and culture. They are not simply a means of getting our bearings or travelling from point A to point B. They form an important basis for our value system and our culture. Australia would not be Australia without the road to Gundagai, the Alice, the Snowy River or even Woolloomooloo. As the Minister responsible for the Geographical Names Board, I have presided over a number of important ceremonies in recent years that have demonstrated the importance of remembering and preserving significant people and events in our history. Last year I informed the House of the Government's official recognition of Fairmile Cove near Breakfast Point, commemorating the construction of the famous Fairmile ships in the vicinity and the important role that they played in the defence of our nation. I think the President of the Fairmile Association is Greg Percival, a former member of this House.

Late last year I was humbled by the ceremony that dedicated a park in North Wahroonga to the memory of Eric Evans, a five-year-old boy tragically killed after getting off his local bus in December 1996. Forty-kilometre speed zones around bus stops were introduced as a result of that accident. In March, in the company of the Irish Vice Consul General, Bishop David Cremin, and the mayor of Blacktown, I announced that the site of the 1804 battle between largely Irish convicts and the British redcoats would be known officially as Vinegar Hill. Named after the equally tragic battle in County Wexford, Ireland, in 1798, Vinegar Hill is synonymous with our nation's yearning for freedom, justice and equality. I am sure that many honourable members are aware of this significant event in the nation's history. The outnumbered and ill-equipped grab bag of convicts were like lambs to the slaughter against the well-drilled, well-fed troops, and it is surprising that only 15 or so convicts were slaughtered on that day. Nine were summarily executed after the battle. The survivors were perhaps the unluckiest ones: they were exiled to Coal River—present-day Newcastle—for even more severe backbreaking and spirit-crushing work.

The battle of Vinegar Hill sums up the best and worst in our nation's history. The entrenched suppression of the weak and powerless by the establishment is contrasted with the unquenchable thirst of the suppressed for liberty and justice. The name "Vinegar Hill" is embedded in that part of Australian society that cherishes its freedom. It is appropriate that the phrase "Vinegar Hill" was the password for the miner rebels at the Eureka Stockade. The recognition of the name "Vinegar Hill", which covers a seven square kilometre area centred around the Castlebrook Lawn Cemetery, will keep alive the memory of Vinegar Hill and the ideals and aspirations it represents. New South Wales is fortunate to have in the Geographical Names Board a body that can continue to register officially names that preserve and commemorate the people, places and events that are so important in shaping our national, State and local community history.

COMMUNITY PARTICIPATION PROGRAM

The Hon. JOHN RYAN: My question is directed to the Minister for Disability Services. Have service providers yet received supplementary funding of \$1.4 million under the new Community Participation Program to assist people with very high support needs? Have 2004 school leavers with very high support needs entered

this program without the promised funding? Have former Post-School Options Program and Adult Training, Learning and Support Program participants with very high needs been forced to start their 2005 programs without the supplement? What plans has the Minister made to assist service providers and the families of those with very high support needs in the Community Participation Program while they wait until the Minister finds time to give them their promised funding?

The Hon. JOHN DELLA BOSCA: As my colleague the Minister for Education and Training has advised the House several times, the Government has announced a series of reforms to programs supporting school leavers with a disability. To replace the one-size-fits-all approach of the previous program, the announcement outlined the introduction of two new programs: the Transition to Work Program and the Community Participation Program. The Government's reforms have caused concern among families and service providers. These reforms reflect the Government's commitment to improving access to employment for young people with a disability and to providing certainty of longer-term support for those who are able to make the transition.

There is no reduction in overall funding for programs supporting school leavers and young people with a disability. In fact, the Carr Government expects to spend about \$62 million this financial year on school leaver programs. This is almost \$5 million more than the last financial year and almost \$19 million more than the year before. As previously announced, some adjustments to the reform program will be made in order to address concerns, including the Government's commitment to provide additional funding to service providers where necessary. As part of ensuring an effective transition to implementing the new programs, specific funds have been set aside to assist people with very high support needs and to help with the cost of special equipment and minor building modifications.

The new programs will improve outcomes for young people with a disability. The Transition to Work Program will improve pathways to work for school leavers who are capable of entering the work force and who have identified employment as a goal or have been assessed as having the capacity to work and be work ready. By supporting young people with a disability in gaining employment, the Government is helping them to lead independent and rewarding adult lives. The Community Participation Program will provide learning and social opportunities for school leavers who do not have the capacity to undertake the transition to employment. This program will provide long-term support. The reforms also provide for improvements in the way that service providers are funded. The new programs will be block funded and will increase the flexibility of service providers in program planning and implementation, ensuring that service user choice and flexibility are maintained.

The department is working with service providers to ensure a smooth transition to the new programs, and so far that transition is going very well. It will also monitor the outcomes of the reforms for people with disabilities, their families and the service system. Not only has the Government provided more appropriate support for school leavers through this policy but also it has ensured that the service system remains viable into the future. The new Community Participation Program provides certainty for young people with disabilities with high support needs and for their families and carers. Prior to these reforms, the Post-School Program was time limited and assumed that all young people with disabilities would move eventually to some type of employment. To assist people with very high support needs an additional \$1.4 million has been allocated for specialist support. The criteria for the allocation of these funds were developed in consultation with representatives from peak service and advocacy organisations. These criteria and application forms have been distributed to all eligible service providers. The closing date for the first round of applications is the end of this month. When the circumstance of an individual is urgent the regional director will consider the situation on a case-by-case basis.

EXCEPTIONAL CIRCUMSTANCES DROUGHT ASSISTANCE

The Hon. TONY CATANZARITI: My question is addressed to the Minister for Primary Industries. What is the latest information on exceptional circumstances drought assistance in New South Wales?

The Hon. IAN MACDONALD: In the past 12 months "exceptional circumstances" have become dirty words for farmers in New South Wales.

The Hon. Rick Colless: Come on! Gee, you're predictable.

The Hon. IAN MACDONALD: What does the Hon. Rick Colless want me to say? The honourable member wants me to talk about the Ingleburn electoral conference meeting held on 16 March. I think that is what he wants. I think it is important to amplify in this House some of what is going on in south-western Sydney.

The Hon. Duncan Gay: Point of order: I do not know what the Minister for Primary Industries is talking about and no-one has asked him to talk about it. The Minister has not answered questions asked of him in the past and he is refusing to do so now. He is using a dorothy dixer as an opportunity to discuss a completely different matter. Madam President, I ask you to draw him back to the substance of the question before the House.

The PRESIDENT: Order! I have reminded the Minister on several occasions that his answer must be relevant to the question asked.

The Hon. IAN MACDONALD: What did you want to know, Charlie?

The Hon. Charlie Lynn: There is a stranger in the House.

The Hon. IAN MACDONALD: Did you want to know about the meeting? We will get a chance on this one—don't worry. It has come to represent everything that is frustrating, unproductive and bureaucratic about the Commonwealth Government's drought assistance program. In just over one week the State, Territory and Commonwealth Agriculture Ministers will be presented with another golden opportunity to make a real, practical and lasting change to drought assistance. They will again sit around the same table at the next Primary Industries Ministerial Council in Darwin. Once again the Federal Minister for Agriculture, Fisheries and Forestry, Warren Truss, will have the chance to resolve the very obvious and gaping flaws in his drought assistance program. It will be a belated opportunity that follows many previous displays of indifference from the Commonwealth.

The Hon. Duncan Gay: You are the biggest hole in the program.

The Hon. IAN MACDONALD: What? New South Wales with \$140 million worth of expenditure on drought—

The Hon. Duncan Gay: That's rubbish!

The Hon. IAN MACDONALD: It is absolutely right. Nevertheless, my department and I are again prepared to launch a fight for a fairer and quicker system of allocating exceptional circumstances income assistance to farmers. Once again, we will try to make the Commonwealth see the desperate need for a more streamlined rollover process. The pick and choose system that Mr Truss is running at the moment gives bureaucrats too much power over which areas are cut off from income support. Honourable members will share my disappointment at the press release issued today by Mr Truss. In a transparent effort to hijack the Ministerial Council before it even begins, Mr Truss has shown he is still only interested in one thing, penny pinching. That is right, he is still crying poor, and trying to squeeze more money out of the State to fund his drought support program. The bribery is as blatant as this. His press release states:

Should the States and Territories agree to return to assuming a higher share of EC business support funding, I am prepared to consider enhancements to current EC business support arrangements of farmers, or new financial contributions to other agreed areas of a national approach to drought assistance.

Once again Mr Truss brings it back to cost cutting from the Federal side to try to make States pay more of his program. Well, thanks for nothing, Mr Truss. The Commonwealth has really scraped the bottom of the barrel with this appalling behaviour. Where is the reform that the Commonwealth has been promising for months and months? Last year Truss agreed to my proposal for a more streamlined exceptional circumstances rollover process. But what did his version of streamlining mean to Dubbo and Coonamble, where income support has not been extended, and to Walgett, Mudgee-Merriwa, Moree, the Northern Slopes, Narrabri, Narrandera and so on? None of those areas have had their exceptional circumstances funding rolled over in the current period.

The 18,000 farmers in those areas are not eligible for income support. Those farmers have been cut off from income support. In New South Wales alone, the Government has now paid out more than \$140 million in drought assistance through a broad package of support measures—transport subsidies, rural financial counsellors, drought support workers, the drought hotline and the community disaster relief fund.

The Hon. Duncan Gay: Will you detail where that money has come from?

The Hon. IAN MACDONALD: It has been detailed. [*Time expired.*]

HUMAN EMBRYOS RESEARCH

Reverend the Hon. Dr GORDON MOYES: My question is directed to the Special Minister of State, representing the Premier. Is the Minister aware that as of yesterday, 5 April, excess assisted reproductive

technology embryos, created before 5 April 2002, which were previously protected by the Commonwealth Research Involving Human Embryos Act 2002, will now be able to be used for experimentation in New South Wales, that is, the embryos might be damaged or destroyed at large for research purposes? What action is the Government taking to protect those embryos that will not be afforded the protection of the law from today onwards?

The Hon. JOHN DELLA BOSCA: I will refer the question to the Premier and get an answer as soon as practicable.

TWEED SHIRE COUNCIL INQUIRY

The Hon. JENNIFER GARDINER: My question is directed to the Minister for Local Government. Is it correct that the Government's inquiry into Tweed Shire Council, undertaken by Professor Daly, has not yet published its report? Are there any other examples of section 430 investigations being instigated during or following a section 740 investigation into a council? If so, what are they? How much has the Daly inquiry cost to date? Was the second investigation instigated because the cost of the Daly inquiry was not justified in the first place?

The Hon. TONY KELLY: The Tweed Shire Council inquiry commissioner, Emeritus Professor Maurice Daly, concluded his public hearings in March 2005. On 15 and 22 March Commissioner Daly wrote to me and to my colleague, Craig Knowles, the Minister for Infrastructure and Planning, concerning possible breaches by Tweed Shire Council of various provisions of the Environmental Planning and Assessment Act. In particular, Commissioner Daly provided examples of prima facie evidence suggesting that the council has not given effect to, and has not enforced, various provisions relating to section 96 modifications, section 94 contributions and council's failure to take enforcement action regarding illegal work.

The Hon. Duncan Gay: What about the specific question?

The Hon. TONY KELLY: I am explaining why there is a section 430 inquiry. Commissioner Daly expressed his concern that similar breaches may occur between the closure of the public hearings and the possible tabling of the inquiry report. Minister Knowles requested that action be taken to authorise an investigation under section 430 of the Local Government Act into aspects of the performance of Tweed Shire Council in respect of its exercising its environmental planning and assessment functions. Accordingly, on 24 March the Director-General of the Department of Local Government authorised such an investigation to be undertaken by Mr Ross Woodward, Deputy Director-General of the Department Of Local Government, with the following terms of reference.

The terms of reference for the investigation were: To investigate and report on council's processes for performing its environmental planning and assessment functions, including the processing, assessment and determination of significant development applications; the determination of contributions under section 94 of the Environmental Planning and Assessment Act and applications to modify development consent conditions under section 96 of the Environmental Planning and Assessment Act; whether there has been any failure by council to comply with, carry into effect or enforce the provisions of the Environmental Planning and Assessment Act and/or of any environmental planning instrument; whether sufficient grounds exist to recommend the appointment of an environmental planning administrator pursuant to section 118 of the Environmental Planning and Assessment Act, and any other matters.

I am advised that the mayor and the general manager of Tweed Shire Council were informed in writing on 24 March of the director-general's decision to authorise the section 430 investigation, including its terms of reference. I understand that Mr Woodward has commenced his investigation and will report to the Department of Local Government on the outcomes in due course. I have heard some outlandish suggestions about the cost of holding the inquiry into the Tweed Shire Council. I can reassure honourable members that the true cost is nowhere near the exaggerated amounts—

The Hon. Melinda Pavey: What is it?

The Hon. TONY KELLY: How could you know, it is not over yet. Don't be silly! I can assure honourable members the true cost is nowhere near the multimillion dollars that is being suggested.

The Hon. Duncan Gay: If you can assure us, you know how much it is.

The Hon. TONY KELLY: I think the suggestion of The Nationals was that it was something like \$5 million. That is outlandish, and what a stupid thing to say. They are just reckless comments made by the shadow Opposition.

The Hon. JENNIFER GARDINER: I ask a supplementary question. Will the Minister advise on the expected reporting date of both inquiries?

The Hon. TONY KELLY: I am not sure when the section 430 inquiry will be completed. However, my understanding is that the inquiry by Professor Daly would take a similar length of time to the inquiry into Warringah council, which took about six months. I assume it will be something similar. Professor Daly has made some comments on that. I am not sure, but I assume it will take about six months.

EMERGENCY MANAGEMENT VOLUNTEERS SUMMIT

The Hon. CHRISTINE ROBERTSON: My question is addressed to the Minister for Emergency Services. Will the Minister inform the House how members of the New South Wales Emergency Services are contributing to a national summit on valuing the nation's volunteers?

The Hon. TONY KELLY: As I have often said in this House, the committed and diligent volunteer members of our emergency services are among the State's greatest assets. The value of emergency management volunteers from around Australia is being recognised at a national summit starting in Canberra today. Rural Fire Service and State Emergency Service members will help to build a stronger volunteer sector by attending that event, which has been organised by Emergency Management Australia [EMA], the Australian Government agency that assists States and Territories to develop their emergency management capabilities and also co-ordinates Commonwealth assistance, upon request, during major disasters.

This is the second Emergency Management Volunteers Summit, following the inaugural event in 2001. Twelve SES volunteers and staff from around the State, including Shoalhaven, Ballina, Oxley, Lightning Ridge and Murrumbidgee, will attend, together with the Director General of State Emergency Services, Brigadier Philip McNamara. Another 12 Rural Fire Service [RFS] volunteers and staff from Tamworth, Kempsey, Illawarra, Jerilderie, Hawkesbury and the Hunter will attend along with Commissioner Phil Koperberg. The theme of the summit this year will be "Value Your Volunteers". The Chairman of the State Emergency Management Committee, Major General Hori Howard, and a number of other committee representatives will also attend.

The summit is an excellent opportunity for members of the emergency services to discuss issues affecting volunteers with other agencies and to work together to ensure volunteering remains strong and vital. Here in New South Wales we are fortunate that our volunteer sector is not only strong but also staunch in its commitment to serving the community. Just last year the SES reached a membership milestone of 10,000 volunteers and the RFS, with more than 69,300 members, is the largest volunteer firefighting service in the world. This is a particularly proud achievement for the SES as this year marks the fiftieth anniversary of its formation.

The RFS also has a strong flow of people seeking to join its ranks and remains very focused on its ability to recruit and retain volunteers. Through a range of research projects the RFS is ensuring it is in tune with its current membership and potential new recruits. In conjunction with the Bushfire Co-operative Research Centre, the RFS is conducting an extensive survey in selected towns across western New South Wales in order to gain a better understanding of recruitment issues. As they do during times of disaster and emergency, our volunteers are again giving up their time this week to participate in the summit. I am confident that New South Wales representatives will use this forum to make a constructive and positive contribution to the continuing development and efficiency of the nation's volunteer sector and its emergency management.

BLOOD ALCOHOL CONCENTRATIONS

Reverend the Hon. FRED NILE: I ask the Minister for Roads a question without notice. Is it a fact that many New South Wales drivers—but especially female drivers, because of their different readings from the same level of alcohol consumption—are having problems establishing their blood alcohol content before driving? Is it a fact that many young people also are having difficulty establishing a safe level of alcohol consumption before driving? Is it a fact that even a Cabinet Minister has had difficulty establishing an appropriate level of alcohol consumption before driving a car? Will the Government therefore enforce its slogan

"Don't drink and drive" by prescribing a zero tolerance for all drivers of any vehicle in New South Wales and amend the Road Transport (Safety and Traffic Management) Act 1999 to prescribe a blood alcohol level of 0.02, the same level as that legislated for L-plate and P-plate drivers in New South Wales?

The Hon. MICHAEL COSTA: Drink-driving obviously is a very serious problem. I would draw to the attention of honourable members that the Roads and Traffic Authority has on its web site details on a range of measures related to drink-driving and drink-driving offences. It is most important to understand that New South Wales handles the drink-driving problem not only by prohibition and prescription of alcohol limits, supported by a series of penalties, but also by a range of community-based programs and programs directed at people involved in the service of alcohol. We have programs for responsible service of alcohol, community education about standard drinks, the application of breath test devices, designated drivers and alternative transport programs, as well as, I might add, a trial at the moment of a breath alcohol activated ignition locking device installed in the vehicles of drink-driving offenders. All those strategies are important.

There is not a simple solution to the problem. It would be very difficult, in the context of acceptance by the community of responsible alcohol use, to be as prescriptive as the honourable member has outlined. I certainly am happy to organise a meeting so that the honourable member can discuss his views with Roads and Traffic Authority officers. I think that is probably the appropriate course. I will take advice from the experts on those matters. As the honourable member is aware, at the moment there are a number of standards regarding blood alcohol concentrations: zero for P-plate drivers, 0.02 for professional drivers, and of course 0.05 for the general community. Those standards have been developed over a number of years. They are almost international standards—0.05 and 0.08 are common—given the direction in which governments are heading with standardisation. I do not think there is, really, a strong case for other than a range of strategies that seek to deal with the problem at every level—that is, providing not only for prohibitions and prescriptions for drivers and those in the alcohol industry, but also for measures addressing community responsibility. I am happy to organise a meeting at which the honourable member can sit down with the relevant people in the Roads and Traffic Authority and discuss his concerns.

GOVERNMENT LICENSING SYSTEM

The Hon. DON HARWIN: My question without notice is directed to the Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, and Assistant Treasurer. Has an internal review of the New South Wales government licensing system [GLS] project found there are "serious issues, such as a very high level of critical defects" in the scheme? Did the same review find there were "unfinished design issues which are not being closed within an adequate time frame"? Has New South Wales WorkCover admitted defeat and, as of Monday 28 February 2005, invoked its contingency plan for the GLS project? What estimate has the Special Minister made as to how much taxpayers money has so far been lost in the flawed program?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his question and congratulate him on his excellent research into the government licensing scheme, WorkCover and the Department of Commerce's supervision of that scheme. I am unable to comment on the quotations made by the honourable member in his question, predominantly because I am not sure what document he took them from. I can advise the House that there are currently 19 licensing agencies in New South Wales—of which WorkCover is one—that administer several hundred different types of business and occupational licences, registrations, certificates and permits. The Government is introducing a government licensing system. The key feature of it will be a single electronic entry point for licence transactions via a web page. This will cut licensing costs and reduce paperwork for small business. The project is expected, as the honourable member indicated, to go online in the very near future.

The government licensing system [GLS] is a major initiative of the New South Wales Government. Of course, WorkCover has been a key agency relying on the provision of that service. By the end of this year it is expected that WorkCover will be able to provide online licensing services for various national certificate assessors, such as pyrotechnicians, construction induction training recipients and applicants for various national certificates of competency. Other licensing systems will be added to the system throughout an ongoing roll-out program. The difficulty to which the honourable member has referred arose during the proofing up of the final elements of the GLS.

WorkCover has some very specific time-frame requirements, as a result of issues that arose consequent upon a report of the Independent Commission Against Corruption on various licensing matters at the

WorkCover organisation. For a variety of operational reasons—as the honourable member correctly infers by his question, but actually draws a slightly wrong conclusion—WorkCover has exercised an option to operate a contingency system until the GLS has, to put it in the colloquial, all the bugs sorted out. I do not expect any substantial loss or waste of taxpayer money, as the honourable member has put it, but I am happy to provide him with the details of any estimated changes in cost as they come to hand.

RETIREMENT VILLAGES LEGISLATION

The Hon. HENRY TSANG: My question is directed to the Minister for Fair Trading. Will he update the House on the progress of a review of retirement village law?

The Hon. JOHN HATZISTERGOS: New South Wales has approximately 750 villages providing housing for some 40,000 residents. Despite these numbers only 3 per cent of our older people currently live in retirement villages. However, projections are that this figure could climb to around 10 per cent as Australia's five million baby boomers reach retirement age and are attracted to the lifestyle and housing options offered by village operators. The present Retirement Villages Act introduced by this Government in 1999 was a major step forward in regulating the retirement village industry in New South Wales and providing residents and those contemplating moving into retirement villages with important rights. The Act imposed disclosure requirements on village operators that facilitated the dissemination of information to prospective residents. It gave residents input into village management and set out mechanisms for resolving disputes covering a range of a village matters. The legislation is characteristic of the Government's policy to protect some of the most vulnerable members of our community from abuse and exploitation.

New South Wales, which introduced a mandatory code of practice for retirement villages under the Fair Trading Act way back in 1989, has been a trendsetter in this area for many years. This code of practice was later adopted by Western Australia, the Australian Capital Territory, the Northern Territory and New Zealand. Similarly, following the introduction of New South Wales Act in 1999, which incorporated the provisions of the code as well as introduced new provisions for even greater consumer protection, Victoria and Tasmania incorporated provisions of the Act into their regulatory regimes. A statutory review into the operation and effectiveness of the Act commenced in March 2004. The review was instituted by the previous Minister in response to community concerns. An issues paper was released by the Office of Fair Trading in September 2004 for public comment. More than 320 submissions were received, 90 per cent of which came from residents and residents' committee officials. The submissions covered a range of issues including the complexity of contracts, the standard of village management, ways to improve resident input, concerns about the level of fees and financial accountability.

I am pleased to report that on 24 March 2005 the report of the outcome of the review was tabled in Parliament. The report includes recommendations on operational refinements aimed at improving efficacy. Although the review found that the policy objectives of the Act remained valid, with the passage of time there was room for improvement to the original legislation. Some of the recommendations include the introduction of a statutory settling in period of 90 days during which any resident who vacates should be liable to pay only fair market rent for his or her short period of occupation and any reasonable administration fee set out in the contract; the prescription of disclosure statements—a general statement dealing with initial inquiries and a more detailed statement to be supplied once interest in a particular vacancy is shown; and the development of voluntary dispute resolution policies by operators in consultation with their residents.

Other recommendations include: the clarification of responsibility for capital maintenance and replacement issues such that when a resident owns the premises, costs are shared between individual residents and the operator in the same proportion as parties are to share in any capital gains under the contract; the amendment of the Act to allow contracts to include a provision for interest to be charged on outstanding contributions; the changing of the operator's financial reporting requirements; allowing the retirement village industry to develop good management benchmarks and procedures including general contact guidelines; increasing penalties for breaches of the Retirement Village; and the introduction of better safety and emergency procedures. Fair Trading will discuss the report and recommendations with key stakeholders before moving ahead with any changes to reduce any unfair or inequitable practices.

STRATHFIELD MUNICIPAL COUNCIL POLITICAL DONATIONS

The Hon. DAVID OLDFIELD: My question without notice is directed to the Minister for Local Government. Is the Minister aware that Labor candidates for Strathfield Municipal Council received

approximately 20 times per capita as much in donations as that received by conservative independent candidates for Tweed Shire Council? Given the publicly understood close financial relationship between developers and Strathfield councillors, why is Strathfield Municipal Council not being subjected to the same level of investigation as Tweed Shire Council? Is the Minister concerned that the Government is vulnerable to accusations of unfairly targeting non-Labor councillors in Tweed while failing to subject Labor councillors in Strathfield to the same level of scrutiny?

The Hon. TONY KELLY: There is a significant difference between the two. The Independent Commission Against Corruption [ICAC] is conducting an investigation into Strathfield Municipal Council. The Government does not conduct investigations concurrently with the ICAC. Once an investigation on whichever council the ICAC is conducting its inquiries into is concluded we will consider its recommendations and conduct any necessary inquiry.

The Hon. DAVID OLDFIELD: I ask a supplementary question. Given the Minister's answer, can we assume that there will be a similar inquiry into Strathfield Municipal Council once the Independent Commission Against Corruption has completed its inquiry into Strathfield council?

The Hon. TONY KELLY: I refer to my previous answer. However, it will depend on the results of the ICAC inquiry and its recommendations.

SUTTON PUBLIC SCHOOL PRINCIPAL

The Hon. PATRICIA FORSYTHE: I direct my question without notice to the Minister for Education and Training. Has she responded to correspondence signed by more than 70 parents and community representatives from Sutton Public School urging the retention of its current principal until the end of 2005 because of his positive impact on the school? If so, is she willing to support the proposed compromise so that the non-teaching principal position is maintained this year? In view of her comments in question time yesterday that students are leaving public education because of Federal Government policies, will she ask the department to review its inflexible approach to staffing formulas in case this policy is impacting on parents' choice of schools?

The Hon. CARMEL TEBBUTT: I will follow up on the circumstances at Sutton Public School to which the honourable member referred. However, there is no doubt that when staffing such a large system as the New South Wales schools system formulas are necessary and school communities can become anxious when enrolments change and schools lose a teacher or a teaching principal, which seems to be the case with Sutton Public School. A line has to be drawn somewhere. But we have to staff the system as a whole equitably, and that is why, in the interests of sharing resources equitably, the allocation of teaching staff in New South Wales public schools is determined by a formula based on student enrolments anticipated for the following year.

Provision for adjustments to the allocation of school teaching staffing levels is made at the beginning of each school year once the actual student enrolments are known. The reduction in the number of teachers allocated to a particular school as determined by the formula occurs when student enrolments fall below specified levels or when the curriculum needs of the school vary. In such a case a teacher or teachers may be nominated for transfer to the nearest vacancy, bearing in mind the teachers' skills and experience, and the needs of the school to which they are appointed. As in the case referred to by the Hon. Patricia Forsythe, schools lose teachers because of enrolment changes and other schools gain teachers or a non-teaching principal because their enrolments have increased.

For example, Merewether High School in the Hunter, Lake Munmorah High School on the Central Coast, Hallidays Point Public School in the Taree area, and Narrabri Public School have had an increase in teacher entitlements. There are swings and roundabouts. Some schools lose teachers other schools gain teachers. I understand that it is very difficult for a school community to accept a change to its teacher entitlements. My experience is that the department tries to manage these changes as sensitively as possible. When schools are right on the cusp the department considers other ways to support the school effectively. We are dealing with one such issue at the moment. It is about a sensible approach to what must be a formulated strategy. We need a way to ensure that resources are spread equitably, and that means drawing the line somewhere. Nonetheless I will follow up on the situation at Sutton Public School.

ANTI-BULLYING INITIATIVES

The Hon. ERIC ROOZENDAAL: My question without notice is directed to the Minister for Education and Training. Will the Minister inform the House on activities of schools on Speak Up Day.

The Hon. CARMEL TEBBUTT: Previously I informed the House about some of the activities that have been undertaken as part of the Government's antibullying strategy, the strong stance that the Government takes against bullying in New South Wales government schools as well as the policies and programs that are in place to counter bullying. The Speak Up Day initiative involved a number of events that culminated in Speak Up Day on 30 March. A series of articles published in the *Daily Telegraph* during March raised awareness of bullying issues and highlighted examples of good practice in both government schools and non-government schools. In addition, a successful antibullying forum was held on 16 March at which antibullying specialists and educators came together to discuss and promote effective strategies for young people in countering bullying.

I am sure everyone would agree that the campaign has been extremely successful. It focused on an issue that can cause great trauma for students in schools in New South Wales. There is no doubt that bullying is not widespread, but I believe that how it is dealt with currently is more effective than the way it was dealt with in years gone by, a matter supported by stories that were shared at the forum by some well-known Australians who highlighted their own experiences of bullying and what happened in the schools they attended years ago. Although I think that bullying is dealt with far more effectively now, it is nonetheless important to send a message that bullying is not on, that bullying is unacceptable. Students should speak up about bullying if they are victims of bullying. It is also most important that they speak up if they witness bullying of another student.

Speak Up Day was successfully conducted across New South Wales. Both government and non-government schools participated in a range of activities that reflects the excellent work of school communities in taking a stance against bullying. It also recognises and highlights bullying as an issue for all members of the community. School communities have helped to break the power of the secrecy of bullying by providing further opportunities for those who are being bullied and bystanders to tell their stories in a safe and supportive environment. Schools have also hosted a range of activities that best reflect the needs of their school communities. For example, Strathfield South High School celebrated the opening of its peer mediation room, which was painted and decorated by the students. The school has also released an antibullying policy that has been written by students.

Revesby South Public School promoted Peace Day in the Playground. Students worked in class groups with teachers while instructing larger groups in the rules of passive playground games. Dorrigo Public School's Bounce Back Program resulted from a parent's forum that was held to help students deal with bullying and to develop resilience. The program, which was highlighted during Speak Up Day, enables students to learn to manage emotions positively, to feel successful and to develop coping skills, positive values and attitudes through cross-curriculum classroom strategies. There are many more examples of successful antibullying activities that were held throughout the State on Speak Up Day. I attended an antibullying forum at the Rozelle Public School on Speak Up Day, to which I was accompanied by two School Sport Foundation ambassadors, Paralympian Amy Winters and Olympic water polo gold medallist Taryn Woods. We were very impressed with the students' presentations and the way in which they were able to discuss their role in speaking out against bullying.

The Hon. Duncan Gay: Who is going to speak up for Milton?

The Hon. CARMEL TEBBUTT: People may make all types of comments in jest, but this is a serious issue that should be taken seriously. The best advice that Amy Winters and Taryn Woods shared with students at the Rozelle Public School was that students should find something they love to do and stick with it because the self-confidence and self-esteem that such an activity will give students will help them to deal with circumstances that may be less to their liking than they had hoped. [*Time expired.*]

PUBLIC EDUCATION COUNCIL

Ms LEE RHIANNON: I direct my question to the Minister for Education and Training. When will she release a written public response to the Public Education Council's report entitled "Building on Strong Foundations"? Is it not counter-intuitive to disband the 13-member Public Education Council, which is chaired by an acclaimed education expert, Lyndsay Connors, when there are so many threats to the future of public education and the Government obviously needs all the good advice it can get? Does her decision to disband the council reveal that the Government has decided that it will never provide a comprehensive response to the recommendations from the Vinson inquiry, which the council was primarily set up to advise upon?

The Hon. CARMEL TEBBUTT: Yesterday I provided information to the House relating to the Public Education Council's report and last weekend's media reports on it. The decision for the council to wind up was

taken at the end of last year. It was decided that when the council had completed its final report, it would have completed its work and its winding up would occur. When I attended the council's last meeting two weeks ago I was presented with the final report. I undertook to get back to individual members of the council with a follow-up response from the Government once we had considered the report and action had been taken.

Yesterday I indicated that the report is publicly available from the web site of the Department of Education and Training. I await formal advice from the department on the recommendations of the council's report, but there is no doubt that the recommendations cover a wide range of matters, including resources, which received a lot of attention, as well as early childhood education, the primary curriculum and what happens in our secondary schools.

As it is quite a wide-ranging report I envisage that the recommendations will need to be considered in a number of different contexts in order to be addressed, including the Futures Project, which is currently under way in the Department of Education and Training. The recommendations from the Public Education Council will be very important to that process. While I am awaiting advice from the department on the recommendations of the council, I wish to address the notion that in some way the disbanding of the Public Education Council means that there is a somewhat reduced commitment to public education in New South Wales. Nothing could be further from the truth.

I have made it very clear to the Public Education Council that it has played a very valuable role. At the end of last year members of the council were advised that when the final report of the council had been completed, its work would be done and there would no longer be a need for members of the council to meet as a council. The individual members of the council are all valued people who I think will continue to contribute to the debate on public education. I have an open mind on what might be required in the future in terms of promoting public education and having some sort of external council or education ambassadors. However, I must say front and centre that the Government has a clear commitment to promoting public education.

I have outlined some of the funding issues that the Government has taken on board with regard to public education. The New South Wales Government spends more per student on public education than does any other State in Australia. There has been a significant increase in funding for public education in New South Wales and, as I indicated yesterday, we are getting very good results. I think it is incumbent upon all those who strongly support public education to speak up about what the public education system in New South Wales is achieving. Wonderful things are happening in our schools every day of the week. Just one example of their achievements to which I will refer was the subject of a *7.30 Report* that I am sure all honourable members would have seen. The Cabramatta High School has formed a chamber orchestra and is just one example of the great things that are happening in our public schools in New South Wales. We need to promote the achievements of our public schools, and the Government takes its role in that promotion very seriously.

ECONOMIC REFORM MINISTRY

The Hon. GREG PEARCE: My question is directed to the Minister for Roads, Minister for Economic Reform, Minister for Ports, and Minister for the Hunter. In his capacity as the Minister for Economic Reform, has he established a ministry? If so, where is it located and whom does it advise? What legislation does he administer?

The Hon. MICHAEL COSTA: I am surprised that the Hon. Greg Pearce has to ask this question. If he had followed the Premier's detailed comments on the role of the Minister for Economic Reform at the time the Ministry was announced, he would know that the matters to which he has referred were made very clear. I do not need to report on something that is a matter of public record. I am not here to carry out research tasks for the Opposition. The Opposition has its own resources and should conduct its own research.

OPEN-SOURCE SOFTWARE

The Hon. JAN BURNSWOODS: My question is directed to the Minister for Commerce. Will the Minister update the House on measures the Government is taking to help departments and agencies that wish to use open-source software?

The Hon. JOHN DELLA BOSCA: I thank the Hon. Jan Burnswoods for her ongoing interest in information and communication technology in government services. Open-source software allows access to and sharing of a software source code and has been adopted by many governments for privacy, security and cost

reasons. Use of open-source software has also been found to encourage the development of local information technology organisations providing software support and services.

Open-source software is widely used in both private and public sectors worldwide, especially in the provision of Internet services. The Carr Government is keen to ensure that the potential benefits presented by open-source software are fully realised by government agencies. The New South Wales Government is the first jurisdiction in Australia to establish an open-source software panel to deliver services to government departments.

Following a tender call, a total of 11 national and global information technology companies will be offered a place on the New South Wales Government's panel for the delivery of open-source, or Linux, enterprise software and services. The positions are subject to final negotiation. The companies are CSC, Dell, Fujitsu, Hewlett-Packard, IBM, Novell, Red Hat, Sol1, Starcom, Sun Microsystems and System Integration Services. The companies range in size from large multinationals to small local firms.

The New South Wales Department of Commerce has established the panel following requests from government agencies for specialist assistance in the provision of open-source software services. Establishing an accredited panel of companies that have already demonstrated their expertise and capability to government has many advantages. It means agencies will not have to go through the time-consuming and expensive process of running an open tender every time they require Linux software and services.

The companies will offer systems support services and product-specific training services for Linux server and desktop environments. In addition, many companies will offer Linux distribution, infrastructure software and systems integration services. The companies have nominated more than 15 agents and 20 subcontractors, many of them small to medium enterprises, to help fulfil orders placed under the contract. This will provide good opportunities for small to medium enterprises and local industry to play an active role in delivering cost-effective Linux services and software, supported by the resources of some of the world's largest open-source companies.

The panel contract will make available to all agencies an operating system option that aligns well with the New South Wales Government's policy to encourage the use of open standards and improve compatibility between systems. Agencies will continue to assess their own needs and choose the option that gives them the best outcome for a particular application. The panel contract will apply for two years with options to extend for two one-year terms.

HERBICIDE USE IN WATER CATCHMENTS

The Hon. IAN MACDONALD: Yesterday Mr Ian Cohen asked me a question about herbicide use in water catchments. I am advised that herbicides are used in forestry to control grasses and woody weeds during plantation establishment to conform to noxious weed obligations and to prevent weeds spreading to neighbouring land. I am further advised that their use for forestry is less frequent and less intensive per hectare and over time than for most other crops.

Forests NSW uses herbicides strictly in accordance with the label instructions determined by the Australian Pesticides and Veterinary Medicines Authority, including instructions about buffers for watercourses. The utilisation of herbicides, including application rates and locations, is strictly supervised and represents best practice. There is no evidence that the use of herbicides by Forests NSW affects aquatic environments or drinking water supplies. Anyone who has evidence of herbicides impacting upon drinking water quality or aquatic environments in water catchments in New South Wales should contact the principal regulator, the Department of Environment and Conservation, which administers the Pesticides Act.

The Hon. JOHN DELLA BOSCA: If honourable members have further questions, I suggest they put them on notice.

DEFERRED ANSWERS

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

FUNERAL INDUSTRY REGULATIONS

On 1 March 2005 the Hon. Dr Arthur Chesterfield-Evans asked the Minister for Education and Training, representing the Minister for Health, a question without notice regarding funeral industry regulations. The Minister for Health provided the following response:

NSW Health has considered a range of options for improving aspects of the funeral industry that are relevant to public health, in part through a review of the Public Health Act. NSW Health has considered submissions from interested parties, including the Combined Pensioners and Superannuants Association and the Council of Social Service of NSW.

On 23 March 2005 the Legislative Council of NSW agreed that its Standing Committee on Social Issues would hold an inquiry into the funeral industry with the Committee to furnish its report by 17 November 2005. It is appropriate to wait for the Committee to present its findings before giving further consideration to amending public health legislation in this area.

SEXUALLY TRANSMITTED DISEASES

On 1 March 2005 Reverend the Hon. Dr Gordon Moyes asked the Minister for Education and Training, representing the Minister for Health, a question without notice regarding sexually transmitted diseases. The Minister for Health provided the following response:

NSW Health advise that in NSW from 1999 to 2004 there was a 307 per cent increase in Chlamydia notifications, a 213 per cent increase in infectious syphilis, a 12 per cent increase in gonorrhoea and from 1999 to 2003 an 11 per cent increase in HIV. Consistent condom use is the best form of protection from sexually transmitted infections, including HIV.

The prevention and control of sexually transmitted diseases is a key public health priority. NSW Health is leading a coordinated and strategic response to increases in notifications. This response is being undertaken in partnership with a range of government and non-government agencies including organisations such as the AIDS Council of NSW, Family Planning Health and the Aboriginal Health and Medical Research Council.

A significant safe sex campaign is currently delivering the condom use message across a number of mediums including mainstream television advertisements, bus interiors, convenience posters, educational booklets and advertisements in specialist publications such as gay, ethnic and Aboriginal media. Letters were also sent to more than 8000 general practitioners across NSW to help reinforce safe sex messages with their patients.

PRIVATE ABORTION INDUSTRY

On 1 March 2005 Reverend the Hon. Fred Nile asked the Minister for Education and Training, representing the Minister for Health, a question without notice regarding the private abortion industry. The Minister for Health provided the following response:

The NSW Department of Health framework for termination of pregnancy in New South Wales Public Hospitals gives clear guidelines about counselling that is required as part of termination of pregnancy. Counselling is available to women who require it through their GP, the Family Planning Association, The Pre-Term Foundation and the NSW Betty Smyth Foundation Phone Line Counselling Service. Private facilities may also directly provide counselling services or refer patients to independent counselling services.

The NSW Department of Health does not regulate the market structure of private facilities performing terminations of pregnancy. Under the Private Hospitals and Day Procedures Act (1988) however, there are regulatory requirements which apply to procedures where complex sedation or general anaesthesia is involved.

The administration of Medicare falls under Australian Government jurisdiction and should be referred to the Commonwealth Minister for Health and Ageing.

HOME WARRANTY INSURANCE DISPUTES

On 2 March 2005 the Hon. Peter Breen asked the Special Minister of State a question without notice regarding home warranty insurance disputes. The Minister provided the following response:

Disputes between the homeowners, licensed contractors and home warranty insurers can be heard before the Consumer, Trader and Tenancy Tribunal.

Home warranty insurance assessors are appointed by the insurer, as is the case for all types of insurance. I am not aware of the legislation that the Honourable Member is referring to in question 3.

I am advised the Consumer, Trader and Tenancy Tribunal does not employ legal advisers. Where parties require legal assistance they are encouraged to obtain independent legal advice. The Tribunal has no control over the quality of this advice.

The Tribunal does not prevent former members from representing clients who are appearing before the Tribunal.

Any complaints from parties concerning ethical issues and professional conduct of legal advisers should be reported to the Legal Services Commission of NSW or the NSW Law Society.

The Office of Fair Trading through the Home Building Service can assist homeowners having disputes with builders. The majority of disputes are resolved by agreement between the parties resulting in a substantial reduction in the number of matters being referred to the Consumer, Trader and Tenancy Tribunal. However, if there is any dissatisfaction with an inspector's findings, an application can be made to the Tribunal. A homeowner is not required to engage a lawyer to represent them at Tribunal hearings. In fact, parties generally are not allowed to be legally represented if the amount claimed or disputed is \$10,000 or less.

GOODS AND SERVICES TAX REVENUE EXPENDITURE

On 3 March 2005 Reverend the Hon. Fred Nile asked the Special Minister of State, representing the Premier and the Treasurer, a question without notice regarding goods and services tax revenue expenditure. The Treasurer provided the following response:

1. No, the States are not accountable to the Commonwealth Government for spending GST revenue grants. Clause 7 of the *Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations* signed by the Prime Minister of Australia and all State Premiers in June 1999 states that 'GST revenue grants will be freely available for use by the States and Territories for any purpose.' The New South Wales Government is accountable to the people of New South Wales for its spending decisions.
2. Yes.
3. Yes.
4. No. Additionally, the figures stated in the question are incorrect. The latest estimates presented at the Treasurer's Conference held on 23 March 2005 are that New South Wales will receive GST revenue grants in 2004-05 of \$9.9 billion out of a total Commonwealth GST revenue grants of \$35.2 billion. The people of New South Wales contribute around \$13 billion of the nation's GST revenue. Had New South Wales received back all the GST revenue paid to the Commonwealth by the residents of New South Wales, our state would receive nearly \$3 billion more in GST revenue grants.

Questions without notice concluded.

[The President left the chair at 1.04 p.m. The House resumed at 2.30 p.m.]

GENERAL PURPOSE STANDING COMMITTEE NO. 1**Report: Budget Estimates 2004-05**

Debate resumed from 18 November 2004.

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 3**Report: Inquiry into Kariong Juvenile Justice Centre**

Debate resumed from 23 March 2005.

The Hon. AMANDA FAZIO [2.32 p.m.]: On 22 September 2004 the Hon. Catherine Cusack moved a motion relating to General Purpose Standing Committee No. 3 and set in train the sorry events that led to this inquiry report and subsequently to the need to establish a Select Committee on Juvenile Offenders. The motion she moved was as follows:

I move Private Members' Business item No. 122 outside the Order of Precedence as amended, by leave:

1. That, in view of the answers given by the Minister for Juvenile Justice at the estimates hearing held on Thursday 16 September 2004, this House instructs General Purpose Standing Committee No. 3 to meet on Thursday 23 September 2004 at 6.00 p.m. for the purpose of hearing evidence from youth workers and staff at Kariong Detention Centre.
2. That the committee hold further hearings, as necessary, on Friday 24 September 2004 and on any other day or days as required, to take further evidence;
3. That for the purposes of these hearings, the committee has leave to sit during the sittings of the House.
4. That the following witnesses be invited to appear before the committee:

Mr Dale Bassett
Mr Scott Bell
Ms Helen Egan
Ms Kim Emmerson
Mr Luke Falconer
Mr Brian Fitzpatrick
Mr Mark Fitzpatrick
Mr Peter Hawthorne
Mr Andrew Makay
Mr David Maryska
Mr Michael Pedavoli

Mr Mitch Walsh
Mr Greg Jones
Mr Byron Hill
Mr Tony Hansen
Mr Gary Hall

5. That all evidence be taken in camera and only made public by order of the committee.
6. That the committee report to the House any evidence made public by the committee by Friday 1 October 2004.

The justification for this most bizarre reference to General Purpose Standing Committee No. 3 was given as being that a crisis had engulfed Kariong Juvenile Detention Centre in recent days. The Hon. Catherine Cusack further stated:

The only report that will be made back to this Parliament as a result of these hearings will simply be the evidence obtained at these hearings. I make no secret of my fear that these people are being persecuted by this Government in the bullying, thuggish manner it has of treating whistleblowers.

Let us look at the actions and motives of those behind the establishment of this inquiry. The intention of the Hon. Catherine Cusack in putting forward this inquiry was stated publicly in an article on page 9 of the *Sunday Telegraph* on 19 September 2004. It said:

The State Opposition will convene a special parliamentary committee hearing into operations at the centre. Opposition juvenile justice spokeswoman Catherine Cusack said the move had crossbench support. At least seven staff members would be called to give evidence at the hearing, she said. The focus of the hearing would be to counter claims by Ms Beamer, who had disputed several whistleblowers stories, Ms Cusack said.

As I have previously informed the House, the Hon. Catherine Cusack did not even have the courtesy to consult all the members of the committee before she determined a timetable that suited her and ignored the operational needs of Kariong Juvenile Justice Centre and the need to ensure that any future hearings were properly serviced by committee staff. It was and still remains highly usual for the House to direct a committee in such a prescriptive way, that is, giving the times and dates of when hearings were to take place and to report in one week. By moving this motion, the Hon. Catherine Cusack demonstrated both her ignorance of accepted procedures and her contempt for the usual conduct of committees of the House. Thankfully the House passed the amendment of the Hon. John Tingle to the motion, which was:

That the motion be amended as follows:

- (1) Paragraph 1: omit the word "instructs"; insert instead "requests";
- (2) Paragraph 1: omit the words "on Thursday 23 September 2004 at 6.00 p.m.";
- (3) Paragraph 2: omit the paragraph; and
- (4) Paragraph 6: omit the words "by Friday 1 October 2004"; insert instead "within 7 days of the final hearing".

At least that amendment made the reference to General Purpose Standing Committee No. 3 workable, or so we thought. When it came time for the committee to try to establish a schedule of witnesses, it became apparent that not all of the 16 employees at Kariong had prior knowledge that they were going to be named in the motion moved by the Hon. Catherine Cusack. In fact, some of them were shocked and distressed to find they were publicly being used as pawns in her game; and more so because they had been given the label of whistleblower, which a number of them rejected, and by which they felt insulted. Further, the prescriptive way in which the inquiry had been established worked to stifle the ability of the committee to hold the inquiry in a timely and orderly manner. It necessitated the terms of reference being amended by the House. On 27 October 2004 the Hon. Catherine Cusack moved:

That the resolution of the House of 22 September 2004 relating to General Purpose Standing Committee No. 3 meeting for the purpose of taking evidence from youth workers and staff at the Kariong Detention Centre be amended by inserting at the end of paragraph 3:

- (2) That additional witnesses may be called by order of the committee.

As I said at the time, that was made necessary because of the strange and unusual way in which the inquiry was established. To put it simply, if the Hon. Catherine Cusack had wanted an ordinary inquiry conducted by General Purpose Standing Committee No. 3 into the Kariong Juvenile Justice Centre, there were procedures that should have been followed. A month after the original decision of the House in this matter she moved an

amendment to allow the inquiry to go forward. This delay was not caused by the committee but by the Hon. Catherine Cusack in setting up an inquiry in such a strange way, with the committee's actions restricted to the original motion passed by the House.

Let us talk about a few other delays. The last member of the committee to submit a list of available dates for hearings and meetings was the Hon. Catherine Cusack. When she came to the first meeting of General Purpose Standing Committee No. 3 for its inquiry into the Kariong Juvenile Justice Centre she did not even have a list of all the additional witnesses she wanted to call, simply because she had not done her homework and was not prepared. Heaven only knows what sort of chaos would have occurred if her original hearing schedule had not been amended. In any case, after a fairly turbulent start the committee got down to business and conducted the inquiry.

Of the 16 staff named in the motion adopted by the House on 22 September, the following agreed to appear and give evidence: Mr Glenn Charters, Ms Helen Egan, Mr Brian Fitzpatrick, Mr Mark Fitzpatrick, Mr Gary Hall and Mr Peter Hawthorne. A further witness, Mr Neville Squire, attended the hearing on Monday 15 November 2004 and gave evidence in camera. I thank those witnesses who gave frank evidence about the working conditions at Kariong, the problems they encountered on a day-to-day basis in dealing with the State's most difficult juvenile offenders, and the problems they encountered in maintaining discipline. On behalf of the committee I thank them for their honest answers and for taking the time and effort to attend.

I also thank the Department of Juvenile Justice, which helped to facilitate the attendance of those staff members. The Minister for Juvenile Justice, the Hon. Diane Beamer, also assisted the committee by readily providing a number of documents that were requested by it. I thank her for that. In order to comply with the terms of reference the committee met on Wednesday 17 November 2004 to consider whether to publish evidence that had been given in camera.

The evidence received by the Committee on 12 November 2004 included a large number of adverse reflections on third persons who were not present at the hearing. The committee has a responsibility to ensure that the principles of natural justice apply in its proceedings and to ensure that the privilege attached to its proceedings is used appropriately. In usual circumstances the committee would offer an adversely named person the opportunity to respond to the allegations made against him or her before publishing the transcript. Given the strict time frame in the terms of reference, it was not possible to follow the usual procedures regarding people who were adversely named.

This problem was exacerbated during the hearing by one member of the committee, who seemed hell-bent on trying to micromanage Kariong and who continually badgered witnesses to name names. Witnesses would often refer obliquely to another member of staff about whom they had a grievance or complaint. However, each reference would be followed by a demand for them to be named and for the position they held to be revealed. This exercise was seemingly pointless and in the end worked against the committee being able to publish the in-camera evidence. In general, however, the range of issues covered during the hearings was quite broad and allowed committee members to get a good feel for the way in which the centre was operating and the concerns of the staff. Paragraph 1.8 of the report states:

The remaining evidence that was considered for publication by the Committee raises serious natural justice issues. The Committee is of the view that to publish the transcript in full would be manifestly unfair to those people adversely named who have not been afforded the opportunity to respond. Consideration was given to publishing the transcript with third parties de-identified, however the Committee was concerned that even with the suppression of names and job titles, identification of the third parties would not be difficult. The Committee strongly believes that this would be an irresponsible use of its powers.

Paragraphs 1.9 and 1.10 of the report go on to say that the committee therefore resolved by majority vote that the transcript should remain confidential. The committee resolved instead to publish a summary of the issues raised by the witnesses. While the committee acknowledges the specificity of the terms of reference, it considers that it is important to inform the House, by summary and relevant quotations, of the issues raised during the hearings. The summary of issues is in chapter 2 of the report, and it is quite comprehensive. Some 25 issues were raised, none of which were particularly flattering to either the governmental administration of Kariong or the management of the centre. So I do not believe that the evidence can be construed as having been censored or edited to favour one side or another; it is simply a summary of what the witnesses said.

Anyone who has taken the time to read the summary of issues will realise that it could not honestly be regarded as constituting a cover-up—which I am sure will be the tired old chant of the Hon. Catherine Cusack. In fact, the Government took so seriously the Kariong issue that on 4 November 2004 it announced that Kariong would be transferred to the administration and management of the Department of Corrective Services. This

announcement was later formalised on 9 December 2004 by the passing of the Juvenile Offenders Legislation Amendment Bill. The bill reflected the recognition by the Government that some detainees are better suited to the environment of the Department of Corrective Services, either due to the seriousness of their offence or because of their behaviour.

The bill also reflected the significant changes in the profile of juvenile offenders over the past 10 years. That profile is of more sophisticated, hardened and violent individuals, with criminal records that included the offences of gang rape, aggravated assault and murder. The proposals in the bill reflected the Government's ongoing commitment to the rehabilitation of young offenders by ensuring that well-behaved offenders who commit less serious offences are not tainted by association with older, more sophisticated offenders. Further, it is the Government's view that older, more serious offenders are best managed in the secure, disciplined environment of Corrective Services. That is the reason for the recent decision to transfer the administration of the Kariong Juvenile Justice Centre to the Department of Corrective Services. So I think we can deduce from that that the Government certainly took very seriously the concerns of staff about the behaviour and management of juveniles in the Kariong centre.

I thank committee members for their interest in this inquiry and for their forbearance in working within its unusual constraints. Additionally, I thank the committee manager, Tanya Bosch, and the other committee staff for their hard work in what was at times a difficult atmosphere. I commend them for their professionalism. In order to allow proper examination of the issues surrounding the Kariong centre, the House agreed on 9 December to establish a Select Committee on Juvenile Offenders.

I believe that if General Purpose Standing Committee No. 3 had been given a proper reference rather than the botched reference of the Hon. Catherine Cusack, the establishment of the select committee would have been unnecessary. However, on a personal level, I must say that I found the evidence of Kariong staff members who attended the hearing on 15 November most beneficial in helping me to understand the unique difficulties they faced in dealing with the group of inmates who were confined at Kariong.

I noted that they were often very nervous. They were not sure about the ramifications of their appearance before the committee—although we advised them of the privileges that are accorded to witnesses who appear before parliamentary committees. I think members of Parliament sometimes forget how intimidating it can be for people to give evidence to a parliamentary inquiry. Even if witnesses give evidence in camera it is still a fairly intimidating experience. For that reason I think we should be particularly thankful to the Kariong staff members who gave evidence to the committee, and I wish them well in the future. I commend the report to the House.

[Interruption]

I note the snigger from the other side of the House. I can only say that other committee members commented to me during the inquiry that if there is one person who could be held responsible for some of the staff at Kariong losing their jobs and being redeployed it is the person who instituted this inquiry. I think until they are prepared to accept that—

The Hon. Duncan Gay: What sort of a filthy threat is that?

The Hon. AMANDA FAZIO: Until they are prepared to accept that responsibility they should be a little more careful in future about what they do, and think about the consequences of their actions—

The Hon. Duncan Gay: Shoot the messenger!

The Hon. AMANDA FAZIO: —particularly when they are using employees at a juvenile detention centre as fodder for a campaign that is being run to try to besmirch the Minister of the day. I think public servants in New South Wales who go about their jobs in a professional and proper manner should not be treated in that way by the political process of this State.

The Hon. Duncan Gay: There's no excusing what you've done. That is absolutely appalling.

The Hon. AMANDA FAZIO: I urge all members to think about that before they embark down another path like this again.

The Hon. Duncan Gay: I have never heard anything as disgraceful. Absolutely disgraceful!

The Hon. AMANDA FAZIO: I note the comments of the Hon. Duncan Gay. I simply say in response to the Hon. Duncan Gay: Look at how you have managed the inquiry into the estimates of the Department of Infrastructure, Planning and Natural Resources and then look into your own heart and your own conscience and ask whether that is the way we should be treating the honest, hardworking public servants of New South Wales. I think not.

The Hon. CATHERINE CUSACK [2.47 p.m.]: What an astonishing admission by the Hon. Amanda Fazio: that the workers at Kariong may well have lost their jobs because of an upper House inquiry. What an astonishing and shameful submission!

The Hon. Duncan Gay: And a threat!

The Hon. CATHERINE CUSACK: Yes, it is a threat to every whistleblower in this State and to every person who approaches the Opposition or the media seeking, through any means available to them, to somehow get the truth out—that their job is likely to be removed. I find the words of the Hon. Amanda Fazio absolutely astonishing. In a sense, nothing further needs to be said about this report. This so-called report of General Purpose Standing Committee No. 3 is a shambles of a document. It bears on its cover the crest of the New South Wales Legislative Council but it is in fact an affront to the very existence of this Chamber. It is a shameful indictment of the Carr Government's manipulation of the truth in order to avoid accountability for the incompetence of one of its Ministers.

The inquiry into Kariong Juvenile Justice Centre was established as a result of evidence given to an estimates committee hearing by the Minister for Juvenile Justice, Dianne Beamer. In that evidence Ms Beamer took the position that there were no problems at Kariong. She rejected Opposition allegations that a group of pensioners had been allowed to access the inner sections of the centre in search of a cup of coffee, for example. She claimed that the incident involving a worker whose nose was broken by a detainee being forced to apologise to the detainee did not occur. She said there were no drug problems at the centre and she denied ever—

The Hon. Amanda Fazio: Point of order: This is a take-note debate on the report of the General Purpose Standing Committee No. 3 inquiry into Kariong Juvenile Justice Centre. The Hon. Catherine Cusack is beginning to speak about matters that were dealt with by the committee during estimates hearings—which is item No. 9 on the notice paper. This is a take-note debate. Madam Deputy-President, I ask you to remind the Hon. Catherine Cusack that she must confine her comments to evidence and information provided to the committee as part of the Kariong inquiry only.

The Hon. CATHERINE CUSACK: To the point of order: The Hon. Amanda Fazio has spent a great deal of her speech talking about my motives, how this inquiry came about and why this motion was moved. I am simply giving my explanation as to why I moved this motion. I ask that I be allowed to continue in the same spirit in which the Hon. Amanda Fazio gave a long speech uninterrupted by us.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! I realise that traditionally in this House a degree of latitude is extended to members contributing to debate. However, I ask members speaking in this debate to confine their comments to report No. 14 of General Purpose Standing Committee No. 3.

The Hon. CATHERINE CUSACK: To clarify, are you saying that I am unable to respond to the matters raised by the Hon. Amanda Fazio?

[Interruption]

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! The Deputy Leader of the Opposition and the Hon. Don Harwin should refrain from further comment lest they further erode the time that the member with the call has for speaking.

The Hon. CATHERINE CUSACK: The motion was moved because following the estimates committee the Government and the Hon. John Tingle voted against the Opposition calling witnesses to that committee. That is why we took the unusual step through the House to create an inquiry so that the workers who had approached us wanting the truth to come out about Kariong would have an opportunity to do that. Of course, the Government fought hard to stop those witnesses being heard. It has used—and we have seen it again today—personal invective and procedural argument to try to smear and block every effort to allow the truth to come out.

During debate on the motion a number of honourable members claimed that it was poor judgment on my part to name the whistleblowers in the motion. In fact, I did not do that. Unfortunately, I was unable to address that in my speech in reply due to numerous points of order being taken by Government members in a well-used tactic to prevent honourable members from providing information to this House that might embarrass the Government. Witnesses we wished to call were Kariong staff who we believed could shed light on the issues. Honourable members will note that all staff were invited and had the right to decline. The tactic of inviting everyone who we believed had relevant information had the benefit of protecting the whistleblowers from persecution by the Government—or so we thought until the entire staff of the centre were turfed out.

This Government's brutal treatment of people trying to get the truth out is legendary, and it was a fair and reasonable expectation on our part that the Kariong whistleblowers would be in for particularly harsh treatment. We had our first taste of it prior to the hearings beginning. The first hearing of the committee was scheduled to begin at 10.00 a.m. on 3 November 2004. Minister Beamer was consulted about the convenience of that time and date. After considering the matter for a week, she declined to respond to the committee and instead referred the matter to her department. Then at 10.00 a.m. on 3 November, the precise moment the hearing was to begin, Minister Beamer held a co-ordinated series of meetings in Sydney and Kariong to announce that the centre would be transferred to Corrective Services. The effect of that announcement was that all the witnesses who were Kariong employees lost their jobs. The timing of the announcement, coinciding with the exact minute of the commencement of our hearing, was intimidating to the witnesses.

Notwithstanding the shock and distress caused by Minister Beamer's announcement, a number of witnesses decided, as a matter of principle and public interest, to still come forward and give their evidence. We applaud the courage of those witnesses and the professionalism and quality of their evidence. The evidence given was overwhelmingly consistent, and it was deeply disturbing. There were no factual inconsistencies of consequence, and the only differences that arose were variations in opinion. Those differences in opinion were not dramatic or surprising, and only served to add to the credibility of the evidence. It showed the staff had not collaborated or devised a script.

It was clear that these witnesses had tried to raise the problems at Kariong at various forums, including management, the department, their own union and, indeed, direct with the Minister. The workers' campaign to reform Kariong was undertaken to protect themselves and their colleagues from physical assault and to save lives. In spite of all that has occurred, and the loss of jobs and distress, the comfort to everybody is that, at least, no life was lost at Kariong because the fear that a life would be lost was genuinely held on their part. They did not set out to embarrass the Government, but there is no doubt that their evidence would have caused huge embarrassment, particularly to Minister Beamer. It is our passionate view that the Minister has all the power and protection of her office, including an ability to make public her views on juvenile justice.

The report that has just been tabled is a cleansed version of the witnesses' evidence. All the transcripts have been suppressed. The committee had the option to go through the transcripts to delete any names that would have upset anybody and aspersions that it felt could have warranted a response. We moved unsuccessfully to say that if other witnesses need to be called to answer the evidence we should have another meeting and seek the support of the House to do that, and I am sure we would have received it. All those entreaties were rejected, and Government members of the committee used the harsh and brutal power of their numbers on the committee to simply move in one strike to suppress all the evidence. We have received advice to the effect that to rewrite the report in the way it has been rewritten is outside the terms of reference. It was obvious that those members of the committee wished to suppress every single word of the transcript of that evidence—given at such cost to the people who gave it—and deny all of their words. They did not want to face the embarrassment of submitting a report with six blank pages so they came up with their own version, which they substituted.

It is, as the Deputy Leader of the Opposition said, a truly disgraceful and low moment for this Chamber. The committee should have considered evidence in detail and resolved to make as much of it public as possible. A resolution suppressing everything is an insult to the witnesses and to the public interest that honourable members are sworn to serve. The Hon. Amanda Fazio has attacked me fairly viciously and personally. Again, I reject her comments and version of my actions, just as I reject her version of the report. I believe that the manner in which the Government has fought this is a reflection of the acute embarrassment that this issue has caused. Again, the astonishing statement by the Hon. Amanda Fazio that this inquiry was what caused the workers to lose their jobs says it all about the Government's management of this issue.

The Hon. PATRICIA FORSYTHE [2.57 p.m.]: I look forward to reading more closely the words of the Hon. Amanda Fazio in *Hansard* tomorrow. If I take the point upon which the Hon. Catherine Cusack

completed her speech on this committee report, and go back to what I believe were the words of the Hon. Amanda Fazio, she said, "people lost their jobs because of this inquiry". I want to make sure that we are absolutely clear about those words because the implication is that because names were named and people were called before a committee of the Parliament, and required to give evidence, those people lost their jobs. If that is the conclusion, the words of the Hon. Amanda Fazio are a contempt of the Parliament.

Whether that is by the Minister, the director-general or someone at another level in the department, somebody has to be held responsible. It is simply not appropriate, when persons are called before a parliamentary committee and the Government does not like the evidence they give, that the response be that those people lose their jobs. That is contempt. That is why the chair, at the beginning of many of our parliamentary committee hearings, issues a caution about the evidence that is to be given. I recently issued such a caution as chair of other committee hearings. We want people to be open and frank in their evidence to a committee. Clearly, anyone called before a committee must be able to give evidence without fear of losing their jobs. Anyone who threatens witnesses as a consequence of the evidence they give to a committee—or, in this case, it would seem, causes them to lose their jobs—has to be subject to some censure. That has to be so, whether it is the Minister, the director-general, someone at another level within the department, or people within this Chamber. I make this statement without any prior preparation for it. It is made solely in response to what was said by the Hon. Amanda Fazio in her speech. I was absolutely shocked that there comes, from the Government itself, effectively an admission that it has engaged in behaviour for which somebody has to be held in contempt of the Parliament. I look forward to reading *Hansard*.

The Hon. Amanda Fazio: If you had listened carefully, you would have heard me say that the actions of the Hon. Catherine Cusack had brought about job losses.

The Hon. PATRICIA FORSYTHE: No, the actions of Hon. Catherine Cusack are not responsible for any jobs lost. The action of the Hon. Catherine Cusack was to name names, so people could be called before a committee so we could find out the circumstances of events that had taken place.

[*Interruption*]

It is not the actions of the Opposition. We managed, through this House, to pass a motion to establish a committee inquiry. Witnesses were called to give evidence to that committee. If, as a consequence of giving evidence, or being named and giving evidence, certain action was taken against them, that action is in contempt of the Parliament. One knows that from advice given to us and from advice we give at the beginning of many of our committee hearings.

The Hon. Melinda Pavey: Government sacks whistleblowers.

The Hon. Christine Robertson: No, no, no.

The Hon. Melinda Pavey: Yes, yes, yes.

The Hon. PATRICIA FORSYTHE: At the very least, there has to be censure. But it seems to me that this has to go right to the top, to the Minister or the director-general, and that we should not let this matter rest here. That the Hon. Amanda Fazio has come into this place and lectured the Opposition about trying to find the facts of a very serious event, in the terms that she did, indicates to me that the Government has to be held to account. I will be relying on the words of the Hon. Amanda Fazio as I pursue this matter further.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [3.02 p.m.]: It is with reluctance that I speak on an issue raised in this debate, but I do so because of comments that were made in the debate. I address my remarks particularly to the unfortunate comments of the Hon. Amanda Fazio, a Deputy-President of this House charged by this Parliament with certain responsibility. I believe the honourable member has failed to discharge that responsibility properly. She indicated that, because people spoke out in fear of their lives, events within the department were responsible for the loss of their jobs. The honourable member said that because the Hon. Catherine Cusack had these people come and give evidence to the committee, after speaking to the honourable member, the Hon. Catherine Cusack was responsible for them losing their jobs.

The Hon. Amanda Fazio was supported in that assertion by her three colleagues sitting on the Government benches today, the Hon. Christine Robertson, the Hon. Henry Tsang and the Hon. Ian West. What friends of workers are they? They want to leave workers in a position where they are powerless. When the

workers try to do something to look after themselves, and that happens to cross a Labor Minister, do they deserve to lose their jobs? The people who are supposed to be sticking up for the workers are responsible for their job losses. This is the most appalling situation I have heard of in this House. A fresh, exciting, new member of the Labor Party is about to make his maiden speech in this Chamber today, yet he has this example to look forward to! I hope he ignores it, because frankly I think this is one of the lowest acts I have seen in a long time.

The Hon. PETER BREEN [3.04 p.m.]: I was a member of this committee and, as honourable members would know, I published a dissenting report on the basis of suppression of evidence given to the committee. It is contrary to the spirit of the Parliament, in my view, for information that is so important and so fundamental to the policy of juvenile justice, particularly when people have placed their careers and their livelihoods at risk to give evidence, to then suppress the information against their wishes. That was a low point, as far as I am concerned. People come before the Parliament in order to have their views ventilated, and for the Parliament then to suppress those views is contrary to the interests of both the committee and the Parliament.

The matter I would like to mention briefly is this question of naming the whistleblowers. I, for one, was concerned about that when the issue first came up. The Hon. Catherine Cusack today has given an explanation for that. As the honourable member pointed out, she had not had the opportunity, before now, to give an explanation. It was an unusual situation. But to go from that point—that is, of whistleblowers being named in the motion—to suggesting that those whistleblowers have lost their jobs as a result of the actions of the Hon. Catherine Cusack is, to my mind, a great leap, and one that is quite inaccurate. Further, it puts the Parliament in a position where not only is there a suggestion of a contempt of the Parliament but there is also a question of whether the Parliament might be liable under unfair dismissal laws for those people losing their jobs. If the statements made by the Hon. Amanda Fazio represent Government policy, then the Government has a serious problem, under the unfair dismissal laws, in relation to those people losing their jobs.

The witnesses demonstrated great courage in coming along to Parliament and giving evidence to a committee of the Parliament. I understand that some of them did lose their jobs, and that others were placed in other centres. But for those who did lose their jobs, I think there is good evidence for them which they can take along to their lawyers and show them, as a result of this debate, and argue, I think fairly cogently and strongly, that the Parliament or the Government is responsible for those people losing their jobs. It is no good blaming the Hon. Catherine Cusack. This report is not her decision. This report is a publication by the House. It is, presumably, supported by the Government, which had a majority of members on the committee.

The Hon. Amanda Fazio: No, we didn't.

The Hon. PETER BREEN: Well, the majority view of the committee is that of the Parliament, and if the statements of the Hon. Amanda Fazio represent the view of the Parliament and of the committee, then those people are in a position where, in my view, they do have something to consider in relation to their employment, if indeed they have lost their employment. The final thing I would like to say is that the Hon. Catherine Cusack has been fairly roundly attacked from the very moment she raised this issue. But if the Hon. Catherine Cusack had not raised the issue in the way she did, nothing would have happened at Kariong. Kariong would have continued to be the most unjust and unfair juvenile institution in the State. Admittedly, Kariong had the worst of the juveniles, but their treatment by the Government and by Juvenile Justice was simply outrageous.

It has not been articulated here but, to my mind, the people who came along and gave evidence represented part of the problem. It was clear from their evidence that there was a serious management problem at Kariong. And, if the Hon. Catherine Cusack had not drawn this matter to the attention of the Parliament, then that problem would have continued. As the honourable member said, people's lives were at risk. What she has done has been extraordinarily heroic, in my view. The way she has been vilified and denigrated over it is disgraceful. She not only put her party's position on the line by going out on a limb like this, but she also did so at great personal expense. I know how upset she was when these people found themselves in the position of being victimised as a result of giving evidence to the committee. If there is some redress available, whether under unfair dismissal laws or in contempt of Parliament, then that action should be pursued, because these people have been very courageous. They do not deserve to be denigrated and attacked. They should be rewarded in some way for their courage.

The Hon. AMANDA FAZIO [3.09 p.m.], in reply: I would like to thank the Hon. Peter Breen for his contribution to the debate. I know that the honourable member, as a member of the committee, took the inquiry very seriously. He did not agree with the majority report to the House, and at appendix 2 of the report is a

dissenting statement by the Hon. Peter Breen in which he raised issues on which he disagreed with the majority of the committee members.

In response to other issues raised in debate, I am quite happy for people to look at *Hansard* tomorrow to read my comments and realise that this is a case of people who are desperate for something to say jumping on the bandwagon and attempting to stifle debate generally and my contribution particularly by threatening and intimidating me. This is yet another example of some people in this Chamber, probably because of poor organisation by those on the Opposition benches, not liking my election as Chair of General Purpose Standing Committee No. 3. As I said earlier, I take my responsibility as chair of that committee very seriously and I ensure that I operate fairly when I chair committee meetings. The report is a fair representation of what happened and a fair representation of the evidence given by witnesses.

The Hon. Duncan Gay: A personal pat on the back.

The Hon. AMANDA FAZIO: He would never get one from anyone. The committee had difficulty when considering the evidence, which was not suppressed. To say that it was a typical hysterical reaction from the Hon. Catherine Cusack. I refer honourable members to paragraph 1.8 of the report, which states that the remaining evidence considered for publication by the committee raises serious natural justice issues. The committee was of the view that to publish the transcripts in full would be manifestly unfair to the people adversely named who had not been afforded the opportunity to respond. I will go through it again for those on the other side of the Chamber who do not seem to understand the procedures of this place. If someone is named adversely, whether in public hearing or in camera, that person is sent that part of the transcript and asked to respond. But because of the bizarre way in which the committee was set up we had a reporting date that was seven days after the evidence was given, which gave us no time.

I say to the Hon. Catherine Cusack, as I have said before: You set up this inquiry with your time frame, with your bizarre reporting requirements. Live with it. If we had a normal reference to General Purpose Standing Committee No. 3 we would have had plenty of time to refer comments in the transcript to those who were named adversely. We would have their comments and we would have dealt with it in the normal manner. The Hon. Catherine Cusack is bleating that she tried to do that through the committee. I do not know of any other estimates committee that wanted to bring in front-line staff from a juvenile justice committee to talk about estimates matters. You have to understand, Catherine, that procedures apply in this place and if you want to work within the framework of this Parliament—

[*Interruption*]

Madam Deputy-President, I am sure *Hansard* is having difficulty understanding me because of the continual screeching of the Hon. Catherine Cusack. I ask you to call her to order, Madam Deputy-President. If she has something significant to say, or if she has a real point to make, she can take a point of order. Otherwise, she can be quiet and listen. The simple fact is that there are ways in which the committee system operates in this place. You should get a grip on those before—

The Hon. Don Harwin: Point of order: I believe that the Hon. Amanda Fazio has taken a point of order. You should rule on the point of order she has taken in relation to the interjections by a member of this House, which, as you know, under the standing orders are deemed to be disorderly at all times. Rather than sitting there it would be appropriate for you to make a ruling.

The Hon. Catherine Cusack: To the point of order: The Hon. Amanda Fazio is virtually addressing me directly with an incredible array of provocative comments. It is almost impossible not to respond. I would suggest to you that the Hon. Amanda Fazio is provoking the interjections that are coming back to her from this side of the Chamber.

The Hon. Don Harwin: Further to the point of order: The Hon. Amanda Fazio is not directing her remarks through the Chair, and I ask you to call her to order for not directing her remarks through the Chair.

The Hon. AMANDA FAZIO: I might be able to assist. I did not take a point of order. I do not know what the Hon. Don Harwin is speaking to.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! In my view the Hon. Amanda Fazio was not speaking to a point of order. I remind members that interjections are disorderly at all times. Members

with the call who are uncomfortable with other members addressing remarks at them directly rather than through the Chair should ignore the remarks and look at the Chair while making their speeches rather than at members sitting opposite them. I note, however, that some members with the call prefer to speak directly to those sitting opposite them in the Chamber. I rule that the comments of the Hon. Amanda Fazio were not made for the purpose of taking a point of order.

The Hon. AMANDA FAZIO: We have set procedures for the way in which committees operate.

[Interruption]

I try not to look at the Deputy Leader of the Opposition, especially after lunch. Procedures in this place need to be followed. Rather than trying to reinvent the wheel and coming up with something that those who instituted the inquiry would have to say is a failure, it is far better to follow the normal procedures of this House, which would have given the committee time to deal with adverse comments. There may then have been an opportunity to present an edited transcript of evidence with the omission of adverse comments. However, we did not have that opportunity because of the time frame that was available. We had a hearing on 15 November. Our terms of reference required us to report to the House within seven days, which did not give us enough time to contact those involved and give them the opportunity to address their concerns about adverse comments with which they were not happy.

There was no attempt to suppress the evidence. The circumstances and time frame of the inquiry worked to that end. A summary of the evidence, to which the Hon. Catherine Cusack referred, was suggested by the committee and adopted by a majority of committee members because they felt that people who had given evidence would feel cheated in some way if their evidence was not ventilated. As I stated earlier, 25 matters were raised. In no way were they complimentary to the Government or the management of the centre. The report cannot be described as a whitewash, a suppression of evidence, a cover-up, or whatever other emotive terms one wants to use. The animosity in debate today probably has given honourable members an indication of the difficult circumstances in which the committee staff had to work. I thank them particularly for their professionalism in working on this short, but difficult, inquiry. I thank the witnesses who gave evidence because they generally believed their evidence would make a difference.

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 4

Report: Inquiry into Closure of the Casino to Murwillumbah Rail Service

Debate resumed from 23 March 2005.

The Hon. MELINDA PAVEY [3.19 p.m.]: The closure of the rail line from Casino to Murwillumbah has impacted severely on the community in northern New South Wales. The decision to close the line was made by the Carr Labor Government when the Minister for Roads, the Hon. Michael Costa, was the Minister for Transport Services. The closure of the service has had a terrible impact on the community. Today in this Chamber when the Minister for Roads was questioned on his closure of the rail lines, he quite flippantly suggested that he had not closed any rail lines as such an action requires an Act of Parliament.

The Hon. Peter Breen: What a classic!

The Hon. MELINDA PAVEY: It was an absolute classic. The Minister for Roads argued that he did not close down the Casino to Murwillumbah rail line as the rail line still exists. While what the Minister said may be correct literally, I remind him that there are no trains using that rail line and a number of other branch lines throughout country New South Wales.

The Hon. Duncan Gay: At Gwabegar there is a log across the line.

The Hon. MELINDA PAVEY: The Deputy Leader of the Opposition has referred to Gwabegar, where the branch line remains officially open in the sense that we have not had an Act of Parliament to close it down, but in every practical sense the line has ceased to function. A large log across the line prevents the transportation by rail of grain and produce from the district. Branch lines in inland, northern and western New South Wales are symptomatic of the problems of infrastructure throughout the State. This Government is intent on running down infrastructure. That is convenient because the condition of infrastructure was one of the reasons the Government gave for closing the Casino to Murwillumbah rail line.

On 6 April 2004 the State Labor Government, through the present Minister for Roads, announced closure of the Casino to Murwillumbah XPT passenger rail service despite an earlier commitment by the former Minister for Transport Services that there would be no closure of any rail lines for so long as a year-long review of rail services in New South Wales was under way. At that time the Government stated that its decision to close the Casino to Murwillumbah rail service had to be made in response to budgetary constraints. The only change in the New South Wales budget has been the additional funds that have been flowing into State coffers, such as an extra \$5 billion in stamp duty alone in the past decade, the certainty of additional GST revenue and increased State taxes.

It is the pathetic argument of the current Treasurer, Dr Andrew Refshauge—as it was of the former Treasurer, the Hon. Michael Egan—that New South Wales is broken and that it is all the fault of the Commonwealth because New South Wales subsidises Western Australia, South Australia and Tasmania as a result of the Commonwealth Grants Commission formula for revenue distribution. Opposition members continually hear the claim by Labor members that budgetary constraints are all the fault of the Commonwealth Government. However, the widely read New South Wales Premier admitted in his book *Thought Lines* that the formula of the Commonwealth Grants Commission operates outside the political process. That is why the Federal Leader of the Opposition, Kim Beazley, has not promised that he would come to the rescue of allegedly short-changed New South Wales if ever he were to win government federally. The Commonwealth Grants Commission works outside the political process, and that is a good thing: sometimes the right decision has to be made because Tasmania and the Northern Territory have specific logistical problems.

The Hon. Christine Robertson: You should be helping us with the Commonwealth Grants Commission.

The Hon. MELINDA PAVEY: And Kim Beazley should be helping New South Wales just as much as anybody else, but he is not. The issue is that pathetic financial management of this State over the past decade by Premier Bob Carr and a succession of pathetic Ministers have driven our infrastructure and services into the ground. The closure of the Casino to Murwillumbah railway line is a very good example of the failure of the Carr Government to manage New South Wales. RailCorp claimed that it would save hundreds of millions of dollars and that rail bridges would be replaced. Infrastructure has been allowed to run down over the past 10 years and it is estimated that it will cost \$92 million over the next 20 years to replace damaged or poorly maintained infrastructure. RailCorp highlighted to the committee the low and declining levels of patronage on the Casino to Murwillumbah rail service as part of the excuses that were proffered by the Government for closure of the line.

The committee travelled to the North Coast during the inquiry and took interesting evidence from good local people—very experienced, impassioned, knowledgeable people who are well aware of this Government's agenda. As a member of the upper House based on the North Coast I witnessed the attitude and behaviour of Labor members of the committee during the public hearings. They did not want to be at the hearings and did not want to hear about the impacts that the Government's decision was having on the lives of local people. That is a great shame. Their behaviour reflected no credit on the Legislative Council.

I congratulate the Hon. Jennifer Gardiner on her chairmanship of the committee. The committee's extensive report firmly places on the record the Government's thinking that underpinned the decision to close the Casino to Murwillumbah rail line as revealed in the evidence given by Vince Graham from RailCorp. The report also deals with the social impacts of the decision and its effect on people's lives—people will no longer be able to board the XPT at Murwillumbah to travel to Sydney; they will be faced with making costly alternative arrangements. One of the reasons advanced by the Government and the former Minister for Transport Services to justify the decision was the impact of the introduction of low or budget airfares on trips from the Gold Coast to Sydney. Evidence given to the committee of the use of the rail line service, particularly during school holidays, negated the Government's reasons and indicated that demand for the service still exists. The Opposition is committed to the reinstatement of a service on the North Coast between Casino and Murwillumbah on the Coalition's return to government in 2007.

Aside from the social impacts of the closure of the rail line, the tourism attractions of the North Coast in one of the most incredibly picturesque areas of the State must also be considered. Byron Bay is a holidaymaker and backpacker destination and many young travellers want to visit that part of the world, but they are being denied that opportunity by the closure of this rail service. I congratulate the Hon. Catherine Cusack who has worked very closely with the North Coast community and many local activists. I recognise the ongoing work of those involved in the TOOT [Trains on our Tracks] campaign, who are in regular contact with

me by email to keep me informed of the campaign's efforts to maintain pressure on the Government and to secure reintroduction of the service. I congratulate them on their work.

Let us hope that the Government in its wisdom and the present Minister for Transport in particular will take a close look at this report and realise the very bad mistake made by the former Minister for Transport Services, the Hon. Michael Costa, in closing down the Casino to Murwillumbah rail service and that, consequently, reinstitution of the rail service will be achieved sooner than the Coalition winning government.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [3.30 p.m.]: I congratulate the Hon. Jennifer Gardiner and the committee on producing this great report, which I support. This inquiry certainly had huge community support, as evidenced by the hundreds of people who attended the hearings. The report reflects the knee-jerk reactions of a tired old Government that is in decay. A decision to close a viable branch line—

The Hon. Amanda Fazio: That is your line.

The Hon. DUNCAN GAY: It is a little different from the Government's line of blaming workers for their own job losses. That viable railway line was used by the community. Minister Costa, who took an offer from John Anderson to fund a railway line that was a State Government responsibility, then took an offer from Mark Latham. No-one else in Australia was silly enough to believe that Mark Latham was going to run anything. That Minister Costa preferred an offer from Mark Latham, accepted it and lauded it, is proof positive that there is not just one boofhead Minister in this House; there are a number of them. This is the greatest con of all. The Government indicated that because sleepers were being delivered and repairs were being carried out it was not prepared to shut down that railway line, but it said that over time it would be shut down because of falling use.

Pursuant to standing orders business interrupted.

ROAD TRANSPORT (GENERAL) BILL

Second Reading

The Hon. MICHAEL COSTA (Minister for Roads, Minister for Economic Reform, Minister for Ports, and Minister for the Hunter) [3.31 p.m.]: I move:

That this bill be now read a second time.

The purpose of this bill is to improve compliance with and enforcement of road transport laws, particularly as they apply to heavy vehicles, to improve road safety and infrastructure protection outcomes for the community. The bill brings together a range of related provisions covering heavy vehicle enforcement. The bill incorporates model provisions from the Road Transport Reform (Compliance and Enforcement) Bill, approved by the Australian Transport Council in November 2003, as well as most existing provisions from the Road Transport (General) Act 1999. The bill generally adopts the model provisions, except in some limited areas, which I will outline. These laws have been developed to achieve a number of outcomes to extend accountability to parties in the road transport chain other than the driver and transport operator, who may bear significant responsibility for the occurrence of an offence and to strengthen enforcement powers and sanctions in relation to chain of responsibility investigations attached to the road laws.

The bill is also designed to encourage parties to the road transport task to adopt active risk management strategies to prevent breaches of applicable road laws. The new compliance and enforcement provisions in the Road Transport (General) Bill will also promote a level playing field for road transport and provide a safer industry for drivers and operators. The main focus of the bill is to improve compliance with loading, mass and dimension requirements as well as compliance with fatigue and driving hours obligations. Improved compliance by parties to the road transport task will assist to minimise the impacts of road transport on roads, bridges and the environment. Chapter 1 of the bill contains the general definitions and regulation powers. Chapter 2 outlines the proposed scope of the Act. Chapter 3 deals with mass, dimension and load restraint requirements for heavy vehicles.

The model bill was drafted to apply to situations in which a load is or may be a factor in a breach. The scope of the bill has been expanded to ensure that the mass, dimension and load restraint provisions apply regardless of whether the load of the vehicle is a factor in the breach. A key feature of the bill is the introduction of a risk-based categorisation of mass, dimension and load restraint offences. These offences will now be

assessed according to the risk they pose into minor, substantial or severe categories. This recognises that not all offences pose the same degree of risk to safety, infrastructure or the environment and therefore penalties need to be applied accordingly. An important concept in the new provisions is the extensive chain of responsibility requirements introduced in bill. Under the chain of responsibility prescribed parties including consignors, packers, loaders or consignees of goods, drivers and operators of vehicles who had control over a step in the process of distributing goods by road may, in relevant circumstances, be legally liable for breaches of road transport laws. These provisions recognise that to date, drivers and operators have generally been the focus of enforcement action for breaches of road transport law.

Under the new regulatory framework, those other parties in the transport chain who by their actions, inactions or demands put drivers and other road users at risk and gain unfair commercial advantages may also be committing an offence and be liable to substantial penalties. In practical terms, this means that it is essential that all parties to the chain of responsibility—consignors, packers, loaders, operators, drivers and in some cases consignees—need to be aware of the requirements of road transport law particularly relating to mass, dimension and load restraint. They also need to have active systems in place to manage these risks to minimise the chance of road transport laws being breached.

This bill also mandates special requirements for the transport of containers by road. Accurate container weight declarations must be provided by the person defined as the responsible entity; namely, the person in Australia who consigns the container for transport or otherwise arranges its transport by road. Without a container weight declaration, a driver is not to transport the container. These provisions are designed to ensure that drivers and road operators receive the correct information to enable the selection of the appropriate vehicle to transport the container within the relevant legal mass limits.

The bill sets out the liability provisions for registered operators and owners and the defence provisions in proceedings for offences for mass, loading and dimension requirements. Liability for a mass, dimension and load restraint offence will apply in relevant circumstances unless a defendant can establish that he did not know and could not reasonably be expected to know of the contravention and had taken all reasonable steps to avoid a breach, even though he may not have been physically involved in the breach. This will apply both inside and outside road transport companies. Within the company, people identified with control over transport operations could be personally responsible and subject to large fines. Outside a company, this may apply to any party that places unreasonable demands on others in the transport chain. This includes directors, senior management, employees and/or sub-contractors.

In a departure from the national scheme, the bill provides a reasonable steps defence for mass offences for drivers, operators and owners. The model bill provided this defence only for minor risk breaches. The bill extends the available defence to substantial and severe risk breaches, but in limited circumstances where the load had been weighed or the defendant was in possession of sufficient and reliable evidence from which that weight was calculated.

This is consistent with existing provisions in New South Wales, and it encourages drivers, owners and operators to take specific and active steps to prevent a breach of mass requirements. The bill sets out the range of sanctions available for heavy vehicle offences. In an effort to foster a culture of compliance within the heavy vehicle industry, these reforms include a range of new and innovative penalties that have been tailored to address specific types of offences. For example, the bill distinguishes between first-time offenders and systemic offenders, with more serious sanctions for those who persistently break the law. The new penalty regime is anticipated to act as a better deterrent to those who in the past have been willing to break road transport laws for unfair commercial gain.

In addition, a five times corporate multiplier will apply to offences in the case of a corporation. Penalties will be both administrative and court imposed. Examples of administrative penalties that the Roads and Traffic Authority [RTA] may issue include improvement notices that identify improvements a business can make to its systems to ensure compliance. The bill also makes provision for the issue of formal warnings that may be applied in certain circumstances where a minor breach, for example, of a load restraint requirement, has unintentionally occurred. Infringement notices and court-imposed penalties for specific offences will also apply. Courts will also have the ability to impose a range of additional sanctions including supervisory intervention orders, licensing and registration sanctions, prohibition orders and, in appropriate cases, commercial benefits penalties.

The national model provisions adopted in the bill will also allow the recognition and effective enforcement of court and administrative sanctions imposed in other Australian jurisdictions in New South

Wales, and vice versa. Importantly, whistleblower protection for people who assist with investigations or report breaches will also be in place as part of this new regulatory framework. An employer who dismisses an employee or contractor, injures or alters an employee's position because of assistance that person has provided with respect to a breach of an Australian applicable road law is guilty of a serious offence, punishable in the case of a corporation by a fine of up to 500 penalty units.

Chapter 4 of the bill sets out the investigation powers relating to road transport legislation. These powers apply to applicable road laws as defined in the bill and, in addition to those laws envisaged in the model bill, have been extended to cover the Road Transport (Safety and Traffic Management) (Driver Fatigue) Regulation 1999. Heavy vehicle driver fatigue is a major road safety issue in Australia and the extension of these powers to investigate these offences will allow better enforcement of existing provisions. Under the new provisions greater enforcement powers may be granted to authorised officers to gather evidence to investigate or pursue those relevant parties to mass, loading, dimension and fatigue offences. These enhanced powers will be made available to specially trained officers in the Roads and Traffic Authority.

In certain circumstances authorised officers will be able to stop, direct, or move a heavy vehicle. They will also be empowered to inspect or search heavy vehicles for compliance purposes and inspect business premises for compliance purposes. The bill also allows authorised officers to search premises, with the consent of the occupier or under the authority of a search warrant, if the officer believes on reasonable grounds that evidence of an offence is present, or if a vehicle connected with the premises has been involved in an accident involving death or personal injury or damage to property. The inspection and search powers do not apply to unattended or residential premises without consent or a warrant. Authorised officers will also be empowered to direct responsible persons to produce records, transport documentation or information about a vehicle, combination or load, and require reasonable assistance in performing their duties.

The model bill allowed, but did not mandate for, jurisdictions to register industry codes of practice. This bill does not pick up that provision. Whilst the Government encourages industry to develop codes of practice that will encourage compliance with road transport law, it does not see it as the role of government to endorse or register such codes. Chapter 5 of the bill also covers liability provisions for multiple offences, double jeopardy and liability provisions for corporations, partnerships and associations. I have heard from stakeholders in the grain industry regarding the provisions in this bill relating to compliance with mass obligations by their industry.

I have asked the Roads and Traffic Authority to set up a working group with key industry players in order to establish a set of protocols around grain haulage during the harvest season. I understand there may be unique circumstances with grain haulage around harvest conditions. Importantly, these protocols will be established within the legislative framework provided by this bill. Since I became Minister for Roads in January I have had a number of meetings with transport associations and transport operators and unions. I am aware that the transport industry, transport workers and the community have a broad range of safety, productivity and operational issues relating to the road transport industry in New South Wales.

I believe that the road transport industry has a key role to play in delivering on the growing freight task and contributing to the economic growth of New South Wales. That is why I will be convening mid-year a Heavy Vehicles Summit to bring together heavy vehicle users and other stakeholders to examine these issues, to agree on priorities and to put in place plans to progress these issues. The provisions in this bill will give enforcement agencies in New South Wales the tools to move to a more systematic and strategic approach to enforcement of road transport laws, particularly where those non-compliant parties are gaining a commercial advantage over compliant parties. Those parties in the chain of responsibility other than drivers and operators will now be required to take an active approach to ensure that the road freight task is undertaken in compliance with relevant law. That will ultimately lead to safer roads, protect our infrastructure and provide a level playing field for the delivery of the growing freight task in New South Wales. I commend the bill to the House.

The Hon. MELINDA PAVEY [3.46 p.m.]: I thank the Minister for introducing the Road Transport (General) Bill and I state at the outset that the Opposition does not oppose it. I am pleased that the Minister referred to a couple of issues that I will be addressing in my speech. I noted the comment by the Minister that he will convene a Heavy Vehicles Summit in New South Wales. The Minister should take account of the contribution made by some effective working groups at the road summit in Port Macquarie last year. At that summit 13 or 14 different community and industry groups discussed heavy vehicle issues. I am sure that would be a good starting point for the Heavy Vehicles Summit. The Opposition supports the bill but it has a number of concerns and reservations about it.

The Road Transport (General) Bill, otherwise known as the chain of responsibility, provides a legislative framework for the compliance and enforcement of mass, dimension and loading requirements for heavy vehicles. The bill is based on the national model provisions approved in November 2003 by the Australian Transport Council, comprising State and Federal roads Ministers. At that time John Anderson was, and still is, Federal transport Minister. He has been a driving force in co-ordinating and bringing some commonsense to transport issues across Australia. John Anderson and the present Minister for Roads have done some good work with AusLink. For years the former Minister for Roads, the Hon. Carl Scully, did nothing.

I am probably damning the Minister for Roads with faint praise, but he and John Anderson did good work in establishing the Australian Rail Track Corporation. More freight will now be able to be transported by rail. Currently, heavy road vehicles carry nearly all our metropolitan freight and most of our non-metropolitan freight. With the establishment of the Australian Rail Track Corporation more freight will be transported by rail. We will have a national rail system across Australia. It has taken governments 100 years to fix the rail system but they are finally getting it right. The Commonwealth Government is investing considerably in rail infrastructure.

We cannot carry all our freight by rail; we will still have to use our roads. It is expected that by 2020 the amount of freight transported by road will double. We must move that freight around Australia by the most effective means possible, and I believe that this bill goes some way towards achieving that goal. As to the chain of responsibility, truck operators cannot continue to undercut their competitors by imposing unrealistic time frames for delivering goods. Lone truck operators cannot continue to win contracts by taking risks and adopting unsafe driving practices. Road transport is a fact of life: we must live with the presence of trucks on our roads. We will not be able to take heavy vehicles off our roads so long as we want to consume or buy goods—which must get to them somehow! However, we must move stock more effectively.

The legislation imposes new responsibilities throughout the trucking industry, making parties to road transport and supply, other than drivers and transport operators, more accountable and legally liable for breaches of the road transport laws. The bill will strengthen the enforcement of sanctions in relation to investigations attached to road laws, provide a reasonable steps defence for mass offences for drivers, operators and owners, and encourage road transport participants to adopt active risk management strategies to prevent breaches of the law. The concept of the bill is to step outside the square and shift the focus from the driver down the chain to see where the offence was committed. Heavy vehicle road safety is one of the biggest issues facing State and Federal governments and we must address it.

More and more pressure is being placed on our road infrastructure and the trucking industry. As freight volume grows, serious problems—especially those relating to driver and road safety concerns and controls—are becoming paramount. Another important issue arising from the growth in road freight is road infrastructure needs, both in relation to new roads and the deterioration and maintenance of existing roads. Other issues include, but are not limited to, environmental issues such as greenhouse gas emissions and noise pollution associated with increased truck movements in built-up areas and nearby communities. On the Pacific Highway—a road I know well as I travel on it from home to Sydney—trucks account for 15 per cent of traffic but are involved in 35 per cent of fatal crashes. This is a terrifying statistic because, while on the whole truck drivers act responsibly and follow safety procedures, accidents involving heavy vehicles often have fatal consequences.

More often than not the truck driver does not cause the accident. But there is not much room to manoeuvre if a car driver makes a mistake and the oncoming vehicle is a truck. Most truck drivers meet their road safety obligations but the statistics should be better. Some evidence presented to the Joint Standing Committee on Road Safety earlier this week—including accounts of drug taking by truck drivers—was startling and worrisome. However, I believe that the entire industry is acting more responsibly, and this legislation will certainly help to that end. The chain of responsibility will prevent cowboys and fly-by-night operators from making unrealistic tenders in an attempt to win contracts.

Many truck drivers are required to meet impossible delivery times and as a result must travel at high average speeds on roads that also carry local and tourist traffic. These pressures on truck drivers are also tragically reflected in the principal causes of fatal accidents involving heavy vehicles. Some 25 per cent of accidents involve drugs and alcohol, 11 per cent are the result of driver fatigue, and 9 per cent are the result of driver misjudgement. Even with the Federal Government's additional AusLink expenditure on interstate rail freight, road freight will be vital in facilitating freight roads over the next 10 to 15 years. The chain of responsibility is very important in addressing core safety problems within the industry.

The bill is based on the national model provisions approved by the Australian Transport Council that are designed to implement appropriate chain of responsibility legislation across the nation to benefit road safety and long-term transport efficiency. When implementing the new laws the States and Territories are supposed to ensure there is a fair enforcement regime, not an overzealous regime. The traditional approach to heavy vehicle enforcement in New South Wales has been to place liability on the driver. However, as we have seen, this is an insufficient approach because other parties within the industry can have a significant impact on breaches. This is especially evident in relation to driver speeds, driving hours, load sizes, and driver behaviour. The Opposition believes that accountability should be spread to encompass these factors, and therefore we generally support the legislation.

New South Wales has a responsibility to provide a fair enforcement regime that is consistent with the national model agreed to in late 2003. However, relevant industry groups have raised certain concerns about the specifics of the legislation. The shadow Minister for Roads in the other place, the honourable member for Ballina, Don Page, highlighted these concerns in his speech during the second reading debate but I would also like to place them on record. The New South Wales Road Transport Association has raised certain concerns about industry codes of practice, specifically in regard to the bill's lack of recognition by the Roads and Traffic Authority [RTA] of industry codes of practice.

A code of practice would remove some of the confusion and clarify responsibility for all parties involved. The Parliamentary Secretary said in the second reading speech that the RTA had been asked to develop protocols, which is a step forward. Protocols or codes of practice would also assist with the reasonable steps defence. While it would not be an alternative to the compliance provisions in the legislation, a code of practice or protocols could be supplementary to the existing provisions, offering additional clarification and best practice for the trucking industry. Of course, the code would have to be consistent with the fundamental compliance conditions relating to mass limits, dimensions, and loading requirements.

The New South Wales Road Transport Association is concerned that the bill does not enable the RTA to recognise industry codes of practice and therefore weakens the bill in its current form and makes it less effective and more ambiguous. I note that in reply to the second reading debate in the Legislative Assembly the Government stated that it is working with the National Transport Commission to finalise guidelines for industry codes. I note this response and hope that the Government will follow up on its promise to work with industry groups to develop codes of practice that help to clarify the legislation.

The Opposition also foresees potential problems with enforcing the legislation to allow authorities to charge anyone involved in loading a truck with a major breach when the truck has been loaded by more than 5 per cent beyond the legal limit. Questions arise as to how those associated with loading a truck are expected to weigh the load when they are in remote areas. The legislation requires either that the load be weighed or that there be documentation confirming that the load is not overweight.

In the case of livestock loading it would not be practical to weigh the load on the property, and there would be no documentation regarding the weight of the animals to assist the driver. It would be possible to estimate the weight of the load but this could not be completely accurate. The industry has raised general concerns that 5 per cent tolerance is too narrow in circumstances such as those, when loads could shift during transport or when it is difficult to determine the weight accurately at the pick-up point. The Opposition is also concerned that in certain circumstances—such as when the weight of the vehicle changes as a result of refuelling, the carriage of additional spare tyres, and the non-inclusion of pallets and weight estimates—the margin for error is too narrow.

There is also concern specifically about the reasonable steps defence. This defence is not available to drivers and operators for some offences. The New South Wales Road Transport Association has pointed out that if the legislation is to apply equally, all parties must have the same rights and responsibilities. All parties that have taken reasonable steps should have equal access to defences, regardless of their position in the chain.

The national model bill provides the reasonable steps defence for minor risk breaches. The New South Wales legislation goes further and extends the defence to substantial and severe risk breaches relating to load mass requirements. This definitely strengthens the New South Wales legislation, but the problem remains that people along the chain are not treated equally under the legislation. All parties involved in the chain of responsibility should have access to the reasonable steps defence.

The bill enables new fees, designed to act as sanctions, to be imposed by regulation. The Government tends to enjoy using the option of regulation to impose new taxes, charges and fees to avoid the proper scrutiny

of Parliament. I note too that the Legislation Review Committee has reservations about that and has pointed it out to the Minister that this is an inappropriate delegation of legislative power. I will be watching very carefully to ensure that the Government does not abuse this power, and I put the Minister on notice that the Opposition will use the mechanism of disallowance in this House if it is not used appropriately.

The Law Society has concerns about the immediate suspension of a person's driver's licence. It believes that the courts should be able to review and overturn immediate suspension when circumstances warrant it. Having stated the concerns of the Opposition about bill, we will not oppose it. I trust that the Minister will respond to the concerns I have raised. I hope the legislation will aid in reducing safety issues involved in heavy vehicles on our roads.

It is a fact of life that heavy vehicles will continue to play a major role in moving freight around our nation. Trucks have to travel many kilometres, especially as primary production has to be carried on our roads as this Government has let our branch lines fall to pieces. The Opposition encourages and supports all steps possible to ensure goods and services are transported around Australia and New South Wales as safely as possible. The Opposition will not oppose the bill.

The Hon. GREG DONNELLY [4.00 p.m.] (Inaugural Speech): I support the Road Transport (General) Bill. As this is my inaugural speech, I thank honourable members for their presence in the Chamber and their indulgence. I take the opportunity to acknowledge the presence of a number of family members and friends in the visitors' gallery.

The history of the Legislative Council dates back to 1823 and since that time it has served the people of New South Wales continuously. This Chamber provides a forum for reflection and second thoughts. It is a means by which legislation can be revised and refined. While sometimes not being particularly popular with the Government of the day, the Legislative Council has and will continue to be an important part of the democratic process in this State.

I am conscious and proud of the fact that I follow a long line of distinguished union representatives who have served the people of New South Wales in the Legislative Council. Their contribution over many decades in developing policies and supporting legislation that has benefited not just Australian Labor Party voters but all people in New South Wales is significant. I hope that over time I too am able to make a contribution to this Chamber that will be judged worthwhile and meaningful.

The contribution of the trade union movement in this Parliament goes back a long way. Indeed, over the years various officials from my union, the Shop, Distributive and Allied Employees' Association [SDA] have become members of the Legislative Council. The SDA is perhaps better known as "the shoppes" or "the shoppies" because the majority of its members work in retail shops, such as supermarkets, discount department stores, department stores and specialty stores. However, during my 19 years of full-time service with the SDA, I never forgot that our membership extended into a number of areas such as fast food, warehousing, distribution, and cosmetic and pharmaceutical manufacturing. Those industries have their own unique issues and challenges. Former honourable members of this House who were officials of my union include the Hon. Ernie O'Dea, the Hon. Johnno Johnson and the Hon. Tony Burke.

The strands of representing workers and involvement in the retail industry go back a long way in my family. On my father's side, Cornelius Donnelly, my great, great grandfather, got a complementary one-way voyage to Van Diemen's Land, arriving in 1844. He was sentenced to seven years hard labour for what appears to have been a minor breach of the seventh commandment. The breach, I believe, did not take place in a shop but, rather, involved borrowing some items of clothing that did not belong to him. His son, John, married Mary Kennedy in 1881 and they had 13 children. Four of their sons became union activists. Martin and Jim were involved with the Australian Workers Union, Con with the Timber Workers Union, and Mic with the Railway Workers Union. A generation later my father, Peter Donnelly, served as a shop steward for the Amalgamated Engineering Union at the Commonwealth oil refinery in Port Melbourne. His brother, my uncle Martin, served as a shop steward at Malcolm Moores, an engineering factory, also in Port Melbourne.

My mother's father, William Creek, migrated to Australia from England in 1910. He was a draper and established a successful retail business and Holden dealership at Holyoake and then Banksiadale, in Western Australia. The business moved to the township of Mandurah, about 70 kilometres south of Perth, in 1953. My father joined the business in 1957 after William Creek died. With this family background some may say it was almost inevitable that I ended up as a trade unionist representing retail workers. Looking back, that could be true.

My childhood years could only be described as ideal. Much of this was due to my family life, a matter to which I will return. Besides a devoted and loving family, there was the beach, fishing, golf, going to the drive-in, and playing with my mates after school and on weekends. It was the 1960s and we lived in a country town. People did not lock their doors when they went down to the shops. Leaving the keys in the ignition meant that car keys were not misplaced. Mandurah primary public school had many great teachers who shaped my values and attitudes, and those of many others. Mr Ross Kirkpatrick, who passed away last year, and Mr Ray Cole, the school principal, instilled in the students the importance of hard work, pride in one's community, and respect and concern for others. Through their example they showed us how to apply ourselves, relate properly to others, and be good citizens.

My high school years were spent under the guiding influence of the Brothers and the devoted lay teachers at Christian Brothers College in Fremantle. My five years at the school, where the parents of many of the boys were either Italian or Portuguese, taught me about languages and cultures other than my own. It also taught me that while we are all different we all share a common humanity. Brother Kevin Paull, our history and literature teacher in upper high school, made a big impression on us. He challenged us to think deeply about life and encouraged us to consider the implications for mankind of slavishly adopting various "isms", including totalitarianism in its various forms, materialism and secular humanism. Did these and other variants allow us to live freely and reach our potential, or did they enslave and limit our capacity to discover the full purpose of our existence?

My time at the University of Western Australia covered the late 1970s and early 1980s. My six years of studying economics and industrial relations was broken by one year of full-time work. In 1983 I worked as a shop assistant in a supermarket and I experienced first-hand how hard retail employees work for relatively modest pay. I also observed what a union was able to do when it collectively represented workers.

Whilst at university I read a book about the life of Frederick Ozanam, the founder of the Society of St. Vincent de Paul. He was a man of action, and the organisation he established serves the poor all around the world. Today there are more than 552 "Vinnies" conferences that operate in New South Wales. The society's great charity work touches the lives of many thousands each year. Frederick Ozanam was a brilliant scholar. As a professor at the Sorbonne in Paris, he championed in his students the consideration of what he saw as the key questions, as he called them—labour, wages, industry and economics. Individual reason, he argued, became supreme under the doctrine of liberalism. On the other hand, socialism created exaggerated state control that was destructive of the best interests of the family and community. In simple terms, he saw the two approaches as being opposite sides of the same coin. They both led by two different paths into the same materialism. Despite the collapse of the communist model of organising human affairs in the late 1980s, I believe that the key questions that exercised the mind of Frederick Ozanam in the 1830s are as relevant today as they were then.

At university, through my study I gained an understanding of how the interaction of supply and demand was very effective at setting prices that cleared the market. However, the market mechanism, whilst efficient, is not perfect. It can have outcomes that are not fair and just, requiring government or third party intervention. I do not accept that the price of labour should be set by whatever the market decides. Labour should never be characterised as being just another factor of production, akin to land, enterprise and capital. When we talk about labour we are talking about human beings and their families, who rely on their wages. In my view, people and their families should not be subject to the harsh operation of markets when it comes to the setting of wages.

Whilst at university I met others who shared my views and values. They spoke up at times and on matters when it was not popular to do so. They have been a good example to me. In particular I would like to mention the Hon. Kate Doust, who became a member of the Western Australian Legislative Council in 2001. She has made, and continues to make, an important contribution in that State's Upper House.

I got my start in the New South Wales Branch of the SDA in 1986 and held various positions before becoming Branch Secretary in 1996. I would like to thank Joe de Bruyn, the SDA's National Secretary, for his encouragement, counsel and assistance over those years. He has been National Secretary since 1978, and we look forward to many more years of his strong and effective leadership. I would like to express my gratitude to all the members of the SDA's National Executive, who have been both colleagues and friends to me. Their unity of purpose and hard work enables the SDA to serve its members as well as it does. I would also like to acknowledge Jim Maher AO, and Geoff Williams, former SDA National President and Vice-President respectively, who were important formative influences on me.

To all the officials and clerical staff of the New South Wales Branch, both present and past, I thank you for your loyalty and hard work. With over 75 current staff and many others I have worked with over the years, it

is not possible to thank you all individually. However, your contribution has made the SDA what it is today. To all the members of the branch's governing body, the Branch Council, I extend my thanks to you all for your trust and support. I also extend my appreciation and gratitude to the over 2,000 workplace delegates who tirelessly, day in and day out, recruit for the SDA and look after the welfare of the union's members. And thank you to the members, who have supported me and kept my feet firmly planted on the ground over the years. I congratulate Gerard Dwyer, who has recently taken over from me as Secretary of the New South Wales Branch. I have no doubt that he will successfully lead the union into the future and wisely navigate the various challenges ahead.

I wish to also express my thanks to a number of individuals whom I have worked with and been encouraged by, including Senator Brian Harradine, who is the Father of the Senate, Senator John Hogg, who is the Deputy-President of the Senate, Senator Jacinta Collins, Senator Ursula Stephens, Premier Bob Carr, the Hon. John Della Bosca, the Hon. Eric Roozendaal, the Hon. Tony Kelly, Mr Mark Arbib, the ALP New South Wales Branch General Secretary, John Robertson, the Unions New South Wales Secretary, and Greg Combet, the ACTU Secretary.

Very few are given the opportunity to enter public life and serve the people of New South Wales. I wish to express my appreciation of the Australian Labor Party for the support given to me. It is indeed an honour to be able to represent the party in this Parliament. I would also like to thank a number of solicitors and barristers who have provided great assistance to me and the SDA over many, many years, including Mark Johnson, David Hartstein, D'Arcy Kelly and many others from Holman Webb, Bill Grace, Mark Grady, Phillip Bussoletti, Tony Macken, Karen Fogarty, Tony Rogers, Frank Curran and John Fernon SC. I owe a particular debt of gratitude to Rocky Mimmo, who has provided me with great encouragement and support along with many thoughtful insights into a range of human rights issues.

Labor governments have always been strong supporters of families. I would like to take this opportunity to congratulate the Carr Government for its ongoing support of families in New South Wales. The New South Wales Government's \$117.5 million Families First program is a clear demonstration of that commitment. The program provides services to 468,000 families with children under eight years of age in this State.

It is my view that the family is one of the touchstone issues facing society today. The family is the first and vital cell in society. It is into our family that we are born, nurtured and grow. History shows us that where the family unit is strong and stable, society will flourish and prosper. The very wellbeing of the individual person and society depends on the wellbeing of the family. My view about the importance of families has been profoundly shaped by my own personal experience. My parents, Peter and Betty Donnelly, who are here today in the visitors' gallery, have been married for 49 years. My sister, Jane, and I have benefited from their devotion in ways we cannot fully appreciate. Our father and mother provided for us in the full sense of the word. I would like to take this opportunity to thank them for everything they have done for us.

Families today are under a lot of pressure, particularly financial. Governments should continue to keep families at the forefront of their thinking when it comes to support. A society that supports and encourages families will reap the benefits many times over. There has recently been a lot of discussion about the work-family balance. Family-friendly workplaces are promoted as an important way of resolving the problem. This might be so, and a lot more can be done to make workplaces more accommodating to those who have family responsibilities. However, what many families desperately want is the option for one parent, the mother or the father, to be at home spending time raising their children, at least while the children are young. Furthermore, society should be a lot more supportive of parents who make the decision to stay at home to raise their children. Unpaid work, both domestic and voluntary, is of enormous importance to society and should be given far greater recognition and encouragement.

The last five decades have seen major changes in our domestic circumstances, and no doubt that change will continue. The Australian Bureau of Statistics 2005 Year Book details a number of these developments, including the ongoing decline in the marriage rate, the trend towards marrying at an older age, the increase of de facto relationships, the increase of lone person households, the high divorce rate, and the low fertility rate. The figures raise a number of issues that are worthy of significant reflection and debate by legislators and society in general.

The Australian Bureau of Statistics has produced population projections based on census data for families in New South Wales. The number of families in New South Wales is projected to increase from 1.7 million in 1996 to between 2.1 million and 2.2 million in 2021. Over the same period the number of one-

parent families is projected to increase at a faster rate than families as a whole. By 2021 there are expected to be between 325,400 and 409,300 one-parent families in New South Wales. Most of these one-parent families will have dependent children. Women will head up the vast majority of these families.

Many of the one-parent families will be the result of family break-up and divorce. These are big numbers in both percentage and absolute terms. As honourable members would appreciate, the cost to society of family break-up and divorce in dollar terms, to say nothing of the emotional impact on the individuals involved, especially children, is enormous. The growing number of one-parent families will increase pressure on the budgets of a number of government agencies. I am well aware that matters relating to family law lie within the ambit of the Commonwealth. However, I make this observation: If, within the next 20 or so years, there are expected to be about 500,000 one-parent families in New South Wales perhaps the State and Federal governments, and the relevant agencies, should consider how they can more closely work together to address the situation. For example, consideration should be given to increasing resources devoted to counselling and mediation services to assist couples experiencing difficulties with their marriages.

Last Sunday we witnessed the passing of an extraordinary person, Pope John Paul II. He was a religious leader and a world leader par excellence. It remains to be seen what his legacy will be. However, throughout his life and, in particular, during his papacy he never ceased to promote the dignity of the human person. Indeed, it could be argued that it was his signature issue. He taught that all human life was inviolate and that it must be treated with dignity and respect. He emphasised time and again that without respect for human life our own humanity is diminished. As Cardinal Clancy said at the Requiem Mass last night held at St Mary's Cathedral, "We have all been lucky to live during the reign of Pope John Paul II." His tireless promotion of the innate dignity of the human person and life itself was, and will continue to be, an inspiring example for all of us.

It is pleasing that this Government continues to make employment a priority. The Labor Party and Labor governments, going back to the James McGowan Government of 1910, have a proud tradition of promoting employment in this State. Unemployment in this State is currently at a 20-year low—only 5.1 per cent. More than 500,000 jobs have been created in the past 10 years. The recent announcement by the Premier to boost apprenticeship numbers is very good news, especially for young people. The increase to 1,200 in the number of TAFE places for nurses is also welcomed. As we know, work means a lot more to people than just a payslip at the end of the week. Work enables us to develop fully as people. Through our work we are able to discover and utilise our natural talents, and make a contribution to the common good of society.

As a trade unionist, whilst respecting the rights of employers, I have always believed that the worker is more important than the work. Although many employers and their representatives accept this in principle, competitive pressures, and the relentless drive to maximise profits and shareholder return, can lead to the rights of employees being subordinated and even compromised. Trade unions can play a vital role in ensuring that this does not happen. The world of work continues to evolve as we move from an industrial-type economy to an economy built on services and technological innovation. The issues and challenges today for workers are significant. Many workers have jobs, but only just. Part-time, casual, contract and limited tenure work is endemic in our modern economy. This type of work is tenuous and insecure. Unfortunately, many people want full-time work but their employers will not offer them a full-time job. Many employers seem to adopt the view that they must have an almost totally flexible work force. That may be good for productivity, the share price and profits, but it is not good for employees and their families.

Honourable members would know that systems of compulsory conciliation and arbitration of industrial relations matters developed in Australia early last century. In fact, the New South Wales system predates the Commonwealth system. The centrepieces of the systems have been the industrial tribunals, which have provided, and continue to provide, a sensible framework for employees, unions and employers to deal with, and resolve, their differences. The same tribunals also provide for the creation and updating of awards that set fair and reasonable minimum rates of pay and conditions. I am a firm believer in the role of strong, independent industrial tribunals. I believe that they have, on balance, served the interests of employees, unions, employers and the community at large very well.

We have heard recently of proposals to radically reform industrial relations in Australia. At the moment there is a lot of speculation. The picture no doubt will become clearer over the next few months. Whether it involves, for example, determining wage adjustments to provide for increases in the cost of living, adjudicating on fair and reasonable work standards, certifying enterprise agreements or bringing parties together to resolve their differences, the community holds our industrial tribunals in high regard. Our industrial tribunals are held in high regard because the notion of a fair go all round resonates strongly with Australians.

I congratulate the Premier and the Hon. John Della Bosca, the Minister for Industrial Relations, on standing up and defending our industrial relations tribunals. The current debate about a change is designed to take us down the path of industrial relations deregulation. In my view, the reforms that are being canvassed will result in many workers, particularly the low paid and those in insecure jobs, being worse off with respect to their wages and working conditions.

I wish to pay tribute to the Hon. Michael Egan, whose seat in this Chamber I now fill. The Hon. Michael Egan was elected into the New South Wales Parliament in 1978 as the member for Cronulla. He served as the member for Cronulla for two terms. In 1986 he was elected to the Legislative Council. In 1995 he became Treasurer, and remained so up until his retirement in January this year, which makes him the longest-serving Treasurer since the introduction of State Parliament. The Hon. Michael Egan made an enormous contribution to public life in New South Wales. He was an outstanding Treasurer. His wit, his wisdom and his intellect will be missed sadly. We wish him well in his deserved retirement, and I hope he finds the fish biting wherever he throws in his line.

May I take this opportunity to thank all members of the parliamentary staff with whom I have come in contact so far over the past few weeks. They have been very helpful and they have provided me with great assistance. I look forward to getting to know them even better over the months ahead.

In concluding, I wish to acknowledge the support and encouragement given to me by my sister, Jane, and her husband, Barry Tetley, and their children; my father-in-law, Robbie Robinson; my brothers-in-law, Stuart and Keith Robinson; and my aunts, uncles, cousins and numerous family friends. I appreciate all that they have done for me over the years. Finally, I would like to thank my wife, Gaynor, and our children, Matthew, Lucy and Joe. Your support and sacrifices have enabled me to devote myself to the union's work and now to participate in public life in New South Wales. Together you are continuing to shape and influence my views about the importance of families, life and work. Madam President and honourable members, once again, I thank you for your indulgence. I look forward to working with you to serve the people of New South Wales. I am sure there will be unanimous support for the Road Transport (General) Bill.

Debate adjourned on motion by the Hon. Peter Primrose.

CRIMINAL PROCEDURE FURTHER AMENDMENT (EVIDENCE) BILL

PHOTO CARD BILL

Bills received.

Leave granted for procedural matters to be dealt with on one motion without formality.

Motion by the Hon. Tony Kelly agreed to:

That these bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages, and the second readings of the bills be set down as orders of the day for a later hour of the sitting.

Bills read a first time and ordered to be printed.

COMMITTEE ON THE OFFICE OF THE VALUER-GENERAL

Membership

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

MADAM PRESIDENT

The Legislative Assembly informs the Legislative Council that it has this day agreed to the following resolution:

That Steven Bruce Scott Pringle be appointed to serve on the Committee on the Office of the Valuer-General in place of Gladys Berejiklian, discharged.

Legislative Assembly
6 April 2005

JOHN AQUILINA
Speaker

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION**Reference**

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

MADAM PRESIDENT

The Legislative Assembly informs the Legislative Council that it has this day agreed to the following resolution:

- (1) The review under Section 32 of the Protected Disclosures Act 1994 be referred to the Committee on the Independent Commission Against Corruption; and
- (2) The review is to determine whether the policy objectives of the Protected Disclosures Act 1994 remain valid and whether the terms of the Act remain appropriate for securing those objectives.

The Legislative Assembly requests that the Legislative Council pass a similar resolution.

Legislative Assembly
6 April 2005

JOHN AQUILINA
Speaker

Consideration of message deferred.

INDEPENDENT COMMISSION AGAINST CORRUPTION AMENDMENT BILL**In Committee**

Consideration resumed from an earlier hour.

The Hon. PETER BREEN [4.32 p.m.], by leave: I move my amendments Nos 2 and 3 in globo:

No. 2 Page 5, schedule 1. Insert after line 27:

[16] Section 22 Power to obtain documents etc

Insert after section 22 (2):

- (3) For the purposes of an investigation under this Act of the use by a member of the Legislative Council or Legislative Assembly of parliamentary resources or allowances, an officer of the Commission may, by notice in writing, request the Clerk of the Legislative Council or Clerk of the Legislative Assembly, respectively, to produce to the officer all documents and things relating to the member's use of those resources and allowances.

No. 3 Page 8, schedule 1. Insert after line 13:

[21] Section 40 Issue of search warrant

Insert after section 40 (4):

- (5) An application for a search warrant may not be made under subsection (4) in respect of premises at Parliament House occupied by a member of the Legislative Council or Legislative Assembly whose use of parliamentary resources or allowances is a matter being investigated under this Act.

The first amendment relates to section 22 of the Independent Commission Against Corruption Act, the power to obtain documents. Members of Parliament who are the subject of an ICAC investigation relating to their use of parliamentary resources and allowances should not be the subject of search warrants in their parliamentary offices when the relevant material is held by the Clerk. The amendment provides that the ICAC may approach the Clerk by notice in writing and request the Clerk of the Legislative Council and the Legislative Assembly respectively to produce to the officer all documents and things relating to members' use of resources and allowances.

I understand as a matter of practice that is the procedure that is followed in any event by the Independent Commission Against Corruption, although I have to say that during a recent investigation into my use of parliamentary resources and allowances the application for the search warrant did not indicate that that had been done. I suggest that an appropriate provision should be included in the legislation. The Clerk has all the documents. The Clerk decides whether claims are paid. It seems to me to be an invasion of parliamentary privilege to execute a search warrant on a member's office for matters that rightly and properly are within the Clerk's office.

The second amendment relates to the issue of a search warrant and provides that an application for a search warrant may not be made under section 40 (4) in respect of premises at Parliament House occupied by a member of the Legislative Council or the Legislative Assembly whose use of parliamentary resources or allowances is a matter being investigated under the Act. In other words, the application for the search warrant ought to provide a number of things and it should provide in particular that a member's office is covered by parliamentary privilege.

In my recent experience the Independent Commission Against Corruption made no information available at all to the magistrate who was issuing the search warrant that care should be taken in relation to parliamentary privilege. There was no indication to the magistrate about other matters that relate to the likelihood of there being private papers that are in the public interest in a member's office, matters covered by other forms of privilege and so on. It seems to me that an amendment ought to deal with those issues.

The two amendments I have moved provide a regime under which members have a right to retain papers that are covered by privilege. That right should not be invaded by what are in the overall scheme of things, and certainly in the overall brief of the Independent Commission Against Corruption, minor matters, namely, the use of parliamentary resources and allowances. I did propose another way of dealing with this which was consistent with the McClintock report, and that was the creation of a parliamentary committee of standards. The Government rejected that good, well thought out recommendation.

I suggest that even though that recommendation has not been followed, the amendments are an alternative way of dealing with the same problem that has been highlighted by Mr McClintock. There is currently no protocol or practice in ICAC in relation to parliamentary privilege, and acceptance of these amendments is one way of achieving that. I commend the amendments to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [4.37 p.m.]: The Government opposes the amendments. Principally these amendments arise out of issues to which the Hon. Peter Breen referred. In that case, the issues were resolved administratively. Accordingly, amendment of the Act of the nature sought by the honourable member is not required.

Amendments negatived.

Reverend the Hon. FRED NILE [4.58 p.m.]: I move Christian Democratic Party amendment No. 1:

Page 5, schedule 1. Insert after line 27:

[16] Section 20AA

Insert after section 20:

20AA Investigations concerning certain conduct of members of Legislative Council and Legislative Assembly

- (1) Either House of Parliament may, by resolution, refer to the Committee of the Legislative Assembly or Legislative Council established under the name of the "Standing Committee on Parliamentary Privilege and Ethics" any matter regarding the alleged use of allowances by, or other conduct of, a member of the Legislative Assembly or Legislative Council that appears to be in breach of the Members' Guide and in respect of which the House has received a report from the Clerk of the Legislative Assembly or Clerk of the Legislative Council.
- (2) A Committee to which a matter is referred under subsection (1) is to enquire into and report on the matter, as directed by the House that referred it.
- (3) The Commission must not commence to investigate, and if investigating must discontinue the investigation of, any matter that involves the same, or substantially the same, subject-matter as a matter that has been referred to a Standing Committee under this section.
- (4) In this section, *Members' Guide* means the guidelines for the appropriate use of entitlements, facilities and services set out in the document known as the Members' Guide issued by the Clerk of the Parliaments from time to time.

I have moved that amendment in an attempt to take up a recommendation of the inquiry conducted by Bruce McClintock, SC, referring to members of Parliament. Recommendation 5.3 states:

That consideration be given to the establishment of a Parliamentary investigator or Parliamentary Committee to investigate:

- (a) minor matters involving Members of Parliament so as to permit ICAC to focus on serious and systematic allegations of corruption; or
- (b) allegations of corruption that ICAC is unable to investigate because of Parliamentary privilege as preserved by section 122 of the Act.

As honourable members know, that recommendation was not taken up by the Government in introducing this bill, for the reasons that I outlined in my contribution to the second reading debate. I believe the Committee should deal with this issue, and have moved the amendment in an attempt to resolve this matter. I hope honourable members will accept my amendment, and will allow a period of time for it to be used where necessary. If some practical problems arise or further clarification is needed or further amendment is necessary, the Government can introduce a further amending bill in due course. However, this amendment should be given a fair trial, at least 12 months or more, to determine whether it meets the needs of members of this House and the other place.

The Hon. PETER BREEN [4.41 p.m.]: This amendment seeks to go one step further than my proposed amendment; that is, to refer a matter to the Standing Committee on Parliamentary Privilege and Ethics. That is an eminently sensible idea. The question of the use of parliamentary resources and allowances will, inevitably, go back to that committee. Parliamentary privilege is an important matter, a cornerstone in our democratic system. Members of the ICAC, for all their talents and skills, should not be allowed to come into Parliament without any regard at all for parliamentary privilege. In my case they removed 130 privileged documents. There was no indication at all in its application for the search warrant that parliamentary privilege was even a consideration.

In addition, the application for the search warrant contained materially false and misleading information, which is now the subject of further investigation. The record of the ICAC suggests that it has no regard at all for parliamentary privilege. In those circumstances, the amendment would deal with that problem for the protection not of members, as the newspapers may suggest, but for members of the public. Members of Parliament hold documents on behalf of the community. This place is regarded as a secure, safe place for their documents and for their troubles. For example, many former police officers work for the ICAC and much of the material that I handle relates to police matters. In those circumstances, documents ought to be protected by parliamentary privilege. The ICAC should not be allowed to arbitrarily override parliamentary privilege, which it has done in my experience. This amendment would address that problem.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [4.44 p.m.]: The Government will not support the amendment moved by the Christian Democratic Party, primarily because an interpretation of the amendment is that it would have the House investigating itself. On my seeking advice from other colleagues, I have been informed that there is a view that there should be external scrutiny of those matters in the same way as there is external scrutiny of the police service and other authoritative bodies in New South Wales. Parliament should be consistent with that process.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [4.44 p.m.]: The Government opposes the amendment. Apart from the reasons given by the Leader of the Opposition, even if the outcome advocated by Reverend the Hon. Fred Nile had merit, the amendment is not required. If Parliament resolved to engage in an investigation of members' allowances and referred it to a committee, obviously issues relating to parliamentary privilege would have to be taken into account by the Independent Commission Against Corruption in relation to any concurrent investigation. Previously, conflicts regarding privilege have arisen between the House and the ICAC and the House resolved them. I refer in particular to a case involving the Hon. Peter Breen.

The amendment is unnecessary. It seeks to curtail the power of the ICAC under its charter to investigate matters, which may include those relating to members of Parliament. If the Parliament wanted to refer a matter, it is appropriate that that be able to be done with the ICAC knowing that it would have to conduct any concurrent investigations in a manner that would not interfere with parliamentary privilege; and that is specifically preserved under the legislation establishing the ICAC.

Amendment negatived.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [4.47 p.m.], by leave: I move Liberal Party amendments Nos 1 and 2 in globo:

No. 1 Page 16, schedule 1 [45], line 21. Omit "in the face or hearing of the Commission".

No. 2 Page 16, schedule 1 [47], lines 29 and 30. Omit all words on those lines.

In the course of the second reading debate the Opposition put forward its view on contempt of the ICAC. It is important that honourable members consider the comments of Justice John Clarke who, when presiding over the inquiry at the time that the Premier made his comments, said:

What the Premier said is capable of being understood as conveying the message that the evidence vindicates the Minister. In this context I wish to make it plain that in my opinion those observations should not have been made publicly by any person, much less than by the Premier of the State. The evil in what he has said is twofold. First in representing a prejudgment by a senior public figure of a continuing investigation and, secondly, and most importantly, in that it is capable of being perceived by members of the public as a means of putting pressure on the ICAC and for that reason on me to make findings that accord with the Premier's expressed views.

As I said in my contribution to the second reading debate, this can be perceived quite properly as an attempt by the Premier to draw the last remaining teeth of yet another investigative body in the ICAC. There is an argument that the Ombudsman has become a paper tiger, and, of course, this is nothing more than an attempt by the Premier to flex his muscle. The Opposition will continue to argue for this amendment, because it upholds a very important principle.

The Hon. PETER BREEN [4.59 p.m.]: I support the Opposition's amendments and I support generally the principle of free speech. I believe that people should be able to say what they like about any investigative body, whether it is the police, the Independent Commission Against Corruption [ICAC] or any other investigator acting in the name of the State. In my case I was roundly condemned by the ICAC for saying that the case against me was the greatest load of rubbish that I had seen since Marrickville council closed the Tempe tip. The assistant commissioner hearing the case said that, on the face of it, that statement was contemptuous of the commission. However, the statement was made in defence of my case—in defence of the case that had been made against me. It was a very different statement from the one that was made by the Premier. In the case of the whistleblower nurses, the Premier, in the middle of the evidence, launched into the matter and suggested that one of the nurses had blackened the reputation of the Minister.

All the counsel involved in that case at the ICAC—including counsel assisting David Staehli but excluding John McCarthy, who was representing the Minister—said that from the point of view of contempt it was a matter that was literally beyond the pale. To say of a witness in the middle of her evidence that she had blackened the reputation of somebody, implying that she had somehow told lies, is pretty dreadful so far as contempt goes. It was decided that the matter would not be referred to the Supreme Court, and that means that the benchmark for contempt is now very high. We can say just about anything based on that interpretation and that precedent without incurring the wrath of the ICAC. So on one view the situation as it is does not need to be changed but, on another view, the law needs to be settled on this question of contempt.

The Government's proposal seems to suggest that contempt in the face of the ICAC should be prohibited while all other forms of contempt, certainly as they have been understood to date, should be allowed. The Opposition's amendments in effect return the status quo, which I support in this instance.

The Government can use the ICAC in a way that other members of Parliament and the public cannot. On the face of it, the contempt committed by the Premier is only one example. Yesterday in this Chamber the Minister for Justice roundly attacked a prisoner—an ICAC informant who was recognised as such by the ICAC. If those statements had been made outside the Chamber, in my view they certainly would have been subject to scrutiny under the ICAC legislation as it stands. The ICAC legislation has strict penalties in relation to what is said about witnesses.

The Hon. John Hatzistergos: That is rubbish!

The Hon. PETER BREEN: I refer to the statement that this Minister made in Parliament yesterday about the prisoner inmate. *Hansard* states:

I am advised that the offender is not currently a witness in any matter before the ICAC and in fact is not currently of interest to the commission.

He went on to describe the prisoner's offences. I am not aware of any sunset clause in the ICAC legislation about protecting witnesses. Former ICAC commissioner Irene Moss wrote to the Minister when he was chairman of the parliamentary oversight committee of the ICAC stating that this prisoner was an ICAC witness. For the benefit of the Minister who is shaking his head and saying that that is not the case, I will refer to the letter to refresh his memory. The letter, which was written by Irene Moss on 2 March 2000, was addressed to the Hon. John Hatzistergos, Chairperson—non-sexist language—Committee on the Independent Commission Against Corruption, Parliament House, Sydney, and states:

The officer's original advice was given to Mr Harrison at the commencement of the interview.

The letter continues:

Following that interview and after the appropriate assessment Mr Harrison was registered as a commission informant and information was provided on that basis.

Despite what the Minister says, this man is an ICAC witness. The Minister has done exactly what the Premier has done; he has attacked an ICAC witness and he has endeavoured to do that with impunity. For him to do that other than through legislation—

The Hon. John Hatzistergos: Point of order: This has nothing to do with the amendments that have been moved. The Hon. Peter Breen uses the records of this Parliament at every opportunity to prosecute the case of a serial sex offender who has manipulated him like the prisoner has manipulated a series of other people before him. It is appropriate that you should call him to order.

The CHAIR: Order! Although the example being given by the Hon. Peter Breen may well relate to a manipulative sex offender, the salient point being raised by the member is whether there is actually a time limit on the period for which a person is deemed to be an Independent Commission Against Corruption informant. Consequently, the member is in order.

The Hon. PETER BREEN: The Minister, who roundly condemned this prisoner, just repeated the offence of which he is convicted. The Minister refers to everyone who disagrees with him as a manipulator. In the view of the Minister all prison inmates are manipulators. He thinks that members who are active on behalf of prisoners are somehow gullible. He is the most arrogant Minister since Michael Yabsley. He has no regard for prisoners. His only regard is for directors and for the regime of Commissioner Woodham. He ought to have more regard for prisoners. He actually has a soft underbelly—I have seen it—but he does not demonstrate it in relation to prisoners. The purpose of raising the issue in this debate is that this prisoner is an ICAC witness. For the Minister to attack him in the way that he has done—

The Hon. Jan Burnswoods: Point of order: On numerous occasions when we are in Committee the Chair has ruled that while members are extended some latitude with their contributions, the matters being referred to must relate to the amendments under consideration. We have heard a wide-ranging series of comments that might or might not have been relevant in the second reading debate. They certainly have nothing to do with this series of precise amendments, which related to contempt provisions in the Independent Commission Against Corruption Act. The honourable member is now completely out of order. He is not speaking to the amendments.

The Hon. PETER BREEN: To the point of order: I have raised this matter in the context of the amendments, which relate to contempt. The contempt provisions in the Independent Commission Against Corruption Act will be amended if these amendments are successful. I am simply using the prisoner as an example to demonstrate how the Government uses current law in relation to contempt to denigrate not only prisoners but, in the case of Mr Carr, witnesses before the ICAC. I ask you to rule against the point of order.

The CHAIR: Order! I uphold the point of order in part. The contribution of the member must be relevant to the amendments under consideration. The member's comments about a specific person and his or her status, and the impact on that status as an Independent Commission Against Corruption informant if the amendments were to be agreed to, are in order. However, his comments in general about his considerations with regard to the Minister are not in order as they do not relate to the amendment. The member should confine his comments to the amendments before the Committee.

The Hon. PETER BREEN: The amendments seek to return the law of contempt to the status quo. The Opposition's amendments seek to delete the words "before the commission are contempt committed in the face of the commission". The Government has not really explained the meaning of those words. It is like legal jargon. A lawyer might have some idea what that expression means. It would be useful if the Minister in his response explained exactly what that expression means. Most lay people would not know the difference between "contempt committed in the face of the commission" and the kinds of remarks that the Minister makes about prisoners or that the Premier makes about witnesses. I support the amendments and hope they are successful.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [4.59 p.m.]: The Government opposes the amendments. The use of contempt by publication by administrative bodies such as the Independent Commission Against Corruption [ICAC] has been criticised roundly by the courts, the Australian

Law Reform Commission and senior lawyers—and, I might add, even by me in an adjournment speech that I made in the House sometime ago.

The Hon. Michael Gallacher: And we missed it!

The Hon. JOHN HATZISTERGOS: Those opposite are always welcome to refer to it. It is a great legal treatise. The bill removes contempt of the ICAC by publication. This reform was recommended by the independent review conducted by Mr McClintock. The removal of contempt of the ICAC by publication is in fact supported by the ICAC. The Australian Law Reform Commission recommended similar reforms in its comprehensive examination of contempt. There are strong legal and policy reasons for restricting the ICAC's contempt powers to act on contempt committed in an ICAC hearing. The ICAC is an investigative body but it is not a court. That is the essential difference, to answer the Hon. Peter Breen's question. Contempt in the record relates to a contempt committed in the course of the proceedings that insults witnesses or the commissioner or somehow disrupts the conduct of those proceedings and takes them on a course other than the proper course that the agency is charged to follow.

Legitimate criticism of the ICAC outside the conduct of a hearing is a different matter altogether, particularly bearing in mind that the ICAC is an investigative body that, in the end, produces a report that represents the opinion of that body. The ICAC, through robust public statements and directions, has the power to protect witnesses and address misrepresentations, inaccuracies and prejudicial comment. The Act contains numerous criminal offences that the ICAC can rely upon to protect its witnesses and its investigations. These offences are being expanded by the bill—for example, the offence of threatening detriment to a person giving evidence in an ICAC investigation.

I find it most interesting that the Opposition has moved these amendments. If memory serves me correctly, the Hon. Doug Moppett was a victim of these contempt provisions. He was cited before the ICAC on a contempt matter in relation to some comments he made about an ICAC investigation concerning some of his interests. I recall that the Hon. Jennifer Gardiner, who was in the Chamber but has now left, was quite vocal in her opposition to the ICAC's action and the use of this provision by then Commissioner Temby. It is interesting to note that the Opposition criticised the provision when it affected one of its own—

The Hon. Don Harwin: Point of order: The Minister, in making those comments about the Hon. Jennifer Gardiner, made an imputation against the honourable member for not being in the Chamber. She is in fact attending a meeting of the Committee on the Independent Commission Against Corruption, the parliamentary oversight committee of the ICAC. I think the Minister's comments were offensive and should be withdrawn.

The Hon. JOHN HATZISTERGOS: To the point of order: I do not think my comments were offensive at all. I know the views that the Hon. Jennifer Gardiner would hold on this matter because they are on the record: She made a speech in which she was critical of ICAC Commissioner Ian Temby for his conduct.

The Hon. Don Harwin: Are you withdrawing them or not?

The Hon. JOHN HATZISTERGOS: Withdrawing what? I do not even know what the implication is.

The CHAIR: Order! For the Minister's words to be withdrawn the Hon. Jennifer Gardiner would need to be present to indicate that she is offended by them and to ask that they be withdrawn. No point of order is involved. However, the Hon. Don Harwin has achieved his goal in having the Hon. Jennifer Gardiner's location noted.

The Hon. JOHN HATZISTERGOS: I am certain that if the Hon. Doug Moppett knew about these amendments he would turn in his grave at the thought that the Opposition is now supporting policy that is contrary to the statements he made when he went to the Supreme Court to answer a contempt charge.

In relation to the other issues raised by the Hon. Peter Breen, I take exception to some of his comments, particularly his suggestion that I have a soft underbelly. I think that is highly offensive. I have a great deal of compassion for the interests of victims of criminals, and I always will. If the Hon. Peter Breen was referring to that, he is dead right: I do have a soft underbelly when it comes to victims. I am very concerned about victims and I have very little time for people such as Mr Harrison, whose case the Hon. Peter Breen was trying to prosecute yesterday in the House. If the Hon. Peter Breen were serious about supporting the appropriate

rehabilitation of prisoners and about affording them rehabilitation opportunities, he would not be supporting people such as Mr Harrison, who simply manipulates the system and brings it into disrepute. I have no time for that particular individual.

The Hon. Peter Breen can ask as many questions about Mr Harrison as he likes but I repeat that a body called the Serious Offenders Review Council—Commissioner Woodham is not a member of the council; it comprises a judge, community representatives and victim representatives—dealt with the case that the honourable member articulated yesterday, and the council reclassified and regressed Mr Harrison. There is the answer to all the Hon. Peter Breen's complaints about what happened to Harrison: an independent body recommended his regression. I think that answers the claim that Harrison has been somehow dealt with unfairly. To suggest that any comments I made about him yesterday denigrate him more than he has denigrated himself through the conduct that led to that outcome is frankly to fly in the face of reality.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.06 p.m.]: It has been said—I must confess that I also hold this view—that the Independent Commission Against Corruption Amendment Bill exists to allow the Government to criticise the Independent Commission Against Corruption [ICAC]. It is true that the review commenced in 2004 by Jerrold Cripps and completed in 2005 by Bruce McClintock made some recommendations that have been accepted. However, the Government seems to have been spurred into action by the comments of the Premier, Bob Carr, during the ICAC inquiry into the behaviour of Craig Knowles towards the whistleblower nurses from Campbelltown Hospital. The commissioner presiding over that inquiry said:

What the Premier said is capable of being understood as conveying the message that the evidence vindicates the Minister. In this context I wish to make it plain that in my opinion those observations should not have been made publicly by any person, much less than by the Premier of the State. The evil in what he has said is twofold. First in representing a prejudgment by a senior public figure of a continuing investigation and, secondly, and most importantly, in that it is capable of being perceived by members of the public as a means of putting pressure on the Independent Commission Against Corruption and for that reason on me to make findings that accord with the Premier's expressed views.

That is the essence of the matter. The Minister for Justice said that the ICAC is merely an investigative body. I cannot consider the legal aspects of the matter in the way that he can because I am not a lawyer. However, in the public mind the ICAC is a quasi court: it behaves as a court in that evidence is taken before it in the manner of a court and the commissioner makes findings in a manner similar to that of a court. While there may be distinctions between the ICAC and a court, in the public mind the ICAC functions as a court and, in a sense, is one of the few bastions that cuts through the secrecy at which this Government has become so expert and seeks transparency and honesty in the workings of government. The Auditor-General is the only other person who performs this sort of task. He examines policy seriously, and that is most important. The idea that the ICAC should be criticised and undermined when it suits political purposes to do so is most worrying for people who believe this body is a major force for honesty in government. For that reason I believe these amendments must be supported, and I will support them.

The CHAIR: Order! I acknowledge the presence in the public gallery of Paul McLeay, the member for Heathcote, who is hosting a delegation to Parliament of Labor members of the Victorian State Parliament.

Reverend the Hon. FRED NILE [5.10 p.m.]: The Christian Democratic Party does not support the amendments. We have used as a guide in this matter the final report of Bruce McClintock, SC, who was asked to investigate this matter as part of his inquiry. He made it quite clear in recommendation R8.1 that section 91 of the Act should be amended so that it applies only to contempt in the face or hearing of the Independent Commission Against Corruption [ICAC]. His recommendation R8.2 provides for protection against threats to persons. In my view this bill provides adequate protection to the ICAC. The bill does not abolish contempt, it just restricts contempt to apply in the face or hearing of the ICAC. The Christian Democratic Party does not support the amendments.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 19

Mr Breen	Miss Gardiner	Mr Pearce
Dr Chesterfield-Evans	Mr Gay	Ms Rhiannon
Mr Clarke	Ms Hale	Mr Ryan
Mr Cohen	Mr Lynn	
Ms Cusack	Mr Oldfield	<i>Tellers,</i>
Mrs Forsythe	Ms Parker	Mr Colless
Mr Gallacher	Mrs Pavey	Mr Harwin

Noes, 22

Dr Burgmann	Mr Jenkins	Ms Tebbutt
Ms Burnswoods	Mr Kelly	Mr Tingle
Mr Catanzariti	Mr Macdonald	Mr Tsang
Mr Costa	Reverend Dr Moyes	Dr Wong
Mr Della Bosca	Reverend Nile	
Mr Donnelly	Mr Obeid	<i>Tellers,</i>
Ms Griffin	Ms Robertson	Mr Primrose
Mr Hatzistergos	Mr Roozendaal	Mr West

Question resolved in the negative.

Amendments negatived.

The CHAIR: As Liberal Party amendment No. 3 and Reform the Legal System amendment No. 6 as circulated are in the same terms, only one—Liberal Party amendment No. 3, which was circulated first—will be moved and considered.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [5.18 p.m.]: I move:

No. 3 Page 19, schedule 1 [64], proposed section 116A, lines 9-17. Omit all words on those lines.

I spelt out quite clearly in my contribution to the second reading of this bill the Opposition's position with regard to the Independent Commission Against Corruption [ICAC] moving away from its role as an investigative body to that of a prosecutorial body. The legislative framework will now allow for the investigative body, the ICAC, to also lay criminal charges. In the view of the Coalition it was not the intention of those who drafted the ICAC legislation, nor should it be the practice—and it is not the practice of other bodies such as the Police Integrity Commission—to provide oversight of the State. Honourable members on this side of the House continue to be defenders of the ICAC as an important body. I commend the amendment to the Committee.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [5.19 p.m.]: The Government does not support the Opposition amendment. Currently, the Independent Commission Against Corruption [ICAC] commences criminal prosecutions arising from its investigations. The Director of Public Prosecutions [DPP] then takes over the prosecution as a matter of practice. The ICAC consults with the DPP before commencing proceedings. Under proposed section 116A, the ICAC will be able to initiate criminal proceedings only if the DPP advises it is appropriate to do so. The DPP will still take over the conduct of the prosecution.

The purpose of the Government amendment is to restrict the ICAC's current power to commence proceedings without the approval of the DPP. The Opposition's amendment would remove proposed section 116A, which would mean that the ICAC would be able to initiate criminal prosecutions irrespective of whether the DPP agrees. The Opposition amendment would reduce the transparency and accountability of the ICAC. It would not lead to greater separation of powers between the investigation of allegations of corrupt conduct and their prosecution.

Reverend the Hon. FRED NILE [5.20 p.m.]: The Christian Democratic Party supports the Opposition amendment. We agree that the main focus of the ICAC should be on investigation, not on prosecution. It is a bad principle to have one body both investigating and prosecuting. As I said in my second reading speech, I am aware of problems between the ICAC and the DPP regarding the DPP not responding rapidly to the ICAC's desire for criminal investigations to proceed.

The main breakdown in the relationship between the two bodies relates to the way in which the ICAC provides material to the DPP, such that the DPP is not happy with the material. That is why I said in my second reading speech that there should be a special unit within the DPP to handle, and give priority to, ICAC referrals so that they are not left at the bottom of the stack of matters that the DPP is dealing with. I saw a newspaper advertisement for a new ICAC deputy commissioner that I consider to be relevant to prosecution, because it states the purposes of the ICAC as follows:

The Commission's purpose is to expose and minimise corruption in the New South Wales public sector through its investigative, corruption prevention, education and research activities.

No reference is made to prosecution in that newspaper advertisement placed by the ICAC. I repeat: that advertisement describes the role of the deputy commissioner. Obviously, the commission does not regard prosecution as one of its priorities, and therefore I do not believe it is wrong for the Christian Democratic Party to support the Opposition amendment.

The Hon. Dr PETER WONG [5.22 p.m.]: I also support the Opposition amendment. I believe that the Independent Commission Against Corruption should be able to investigate all matters, but their prosecution is a totally different matter. I would like to give as an example a matter involving the Committee on the Health Care Complaints Commission, of which I am a member. That committee, which is chaired by a Labor member, Mr Jeff Hunter, also was concerned about the dual roles of the Health Care Complaints Commission in both investigating and prosecuting matters, although the commission prosecutes only after it obtains the agreement of the Medical Board. However, I remain concerned that a body like ICAC should not carry out both investigation and prosecution roles.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.23 p.m.]: If the Government wants the Independent Commission Against Corruption to be an investigative body, it seems odd that it would allow the commission to be a prosecuting body as well. Those two functions ought to be kept separate. As such, I support the Opposition amendment.

The Hon. PETER BREEN [5.24 p.m.]: I support the Opposition amendment, although I do so with some reservation. The Government's position is that it does not want the Independent Commission Against Corruption to be involved in prosecutions, and the Opposition's position is that it does not want the Independent Commission Against Corruption to be involved in prosecutions. So both the Government and the Opposition are in agreement on that matter. The wording of the Government's measure and of the Opposition amendment suggests that the Opposition provision would remove any doubt about this aim, although there is still some doubt with the Government's provision. On that basis, I support the Opposition amendment.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [5.25 p.m.]: I want to clarify the matter for honourable members. The current position is that, under its charter, the Independent Commission Against Corruption has as a secondary function the assembly of evidence for prosecution. That is provided for in the Independent Commission Against Corruption Act. With regard to any person of interest that the commission is investigating, it must issue a statement that the Director of Public Prosecutions consider possible prosecution action. A statement is required to be given in relation to any person of interest in an ICAC investigation.

The position is that the ICAC material is then forwarded to the Director of Public Prosecutions, who forms an opinion, and any charges are laid by the ICAC. The ICAC relies on its common law right to bring a prosecution, and the prosecution is then taken over by the Director of Public Prosecutions. That is the current position. So at present the ICAC is in fact commencing prosecutions, and to do so is relying on its common law right. That is almost invariably after it has consulted the Director of Public Prosecutions as to whether there is appropriate evidence for a prosecution to be brought.

The Opposition amendment would not change that situation, because the Director of Public Prosecutions argues that he should not be laying the information; he does not do so for other agencies. The bill provides that the ICAC cannot initiate proceedings without the Director of Public Prosecutions consenting to that course. At the moment, there is no requirement in the Act that the Director of Public Prosecutions must consent to a prosecution being brought by the ICAC.

If the Opposition amendment is defeated, the status quo will continue. That will mean that the ICAC potentially can launch a prosecution by itself, irrespective of the views of the Director of Public Prosecutions. In practice, that is not what happens. The Act never contemplated that that would happen. Conformity with what Bruce McClintock recommended in his report is the reason for the Government amendment: to tidy up the current situation and make it clear that no prosecution, formal or otherwise, can be launched by the ICAC. It will continue to be the case that any prosecution that is commenced by the ICAC, with the consent of the Director of Public Prosecutions, will be taken over by the Director of Public Prosecutions.

The alternative is to have a situation where the consent of the Director of Public Prosecutions is not required, and where action can be commenced by the ICAC, and where the Director of Public Prosecutions will terminate that action when it takes over the proceedings. That would be a messy process. In order to make it

clearer, the Government amendment seeks to enforce the position that no prosecution can be initiated by the Independent Commission Against Corruption without the consent of the Director of Public Prosecutions.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [5.28 p.m.]: There is no doubt that the Government provision is very poorly worded, because it provides that "the Commission may commence proceedings", notwithstanding, as the Minister said, that the commission must first run the matter by the Director of Public Prosecutions. For the first time in this State, and as far as I am aware in any other jurisdiction in Australia, prosecutorial powers are to be given to a body with inquisitorial powers and the power to force people to answer questions. This is unlike the police service, the Police Integrity Commission or any body other than the State Crime Commission. The police service and the Police Integrity Commission and like bodies do not do their own prosecutions.

The Hon. John Hatzistergos: They can.

The Hon. MICHAEL GALLACHER: The Minister says, "They can." But those prosecutions are executed through the Director of Public Prosecutions.

The Hon. John Hatzistergos: That is right. That is what the Independent Commission Against Corruption does, too.

The Hon. MICHAEL GALLACHER: The Government's poorly worded amendment says that the Independent Commission Against Corruption "may commence proceedings". The Government needs to reword this section in such a way that it clearly spells out that proceedings are commenced by the Director of Public Prosecutions, at the request of the Independent Commission Against Corruption, or at the suggestion or recommendation of the Director of Public Prosecutions. The section should not provide that the Independent Commission Against Corruption must commence the prosecution, because that would be giving an inquisitorial body powers to prosecute. I have been involved in this area, and I am not confident that that necessarily is the way to go at this stage, especially as the legislation is poorly worded.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [5.29 p.m.]: The Leader of the Opposition is labouring under a misapprehension. The ICAC has the power to launch a prosecution, and it uses it. The Police Integrity Commission [PIC] has the power to launch a prosecution, and it uses it. Under the current law there is no requirement for them to consult anyone. However, one of the functions of the ICAC is to refer matters to the Director of Public Prosecutions [DPP] to determine whether a prosecution should be launched, but it is not mandatory that the ICAC seek the advice of the DPP before it launches a prosecution. The ICAC has the power to launch a prosecution and that power can be used. I understand that the ICAC has launched a prosecution without advice from the DPP. In just about every case the ICAC seeks the advice of the DPP before it launches a prosecution, but there is no requirement to do so.

As Bruce McClintock recommended in his report, the bill provides that the ICAC can no longer launch prosecutions—but it will continue to do just that without the consent of the DPP if the amendment of the Leader of the Opposition is carried. In other words, the provisions in the Act that require the DPP to consider whether it is appropriate to bring prosecution proceedings must carry over into the decision of the ICAC to launch a prosecution. Then, as is currently the case, the DPP will take over those proceedings. In any other criminal prosecution, whether it involves the Office of Fair Trading or the police, it is the agency, not the DPP, that commences the prosecution, but the DPP can become involved. Currently that is what happens with the ICAC and the PIC.

The Hon. Michael Gallacher: But they don't have any inquisitorial powers.

The Hon. JOHN HATZISTERGOS: It is not a question of inquisitorial powers. That has nothing to do with it.

The Hon. Michael Gallacher: The ICAC can force you to answer questions.

The Hon. JOHN HATZISTERGOS: But they cannot use that evidence in a prosecution. The honourable member has to understand—

The Hon. Michael Gallacher: No. They do not use it when the DPP goes through it and has a look at it. But if you give them prosecutorial powers, there is no outside body oversighting it.

The Hon. JOHN HATZISTERGOS: This is just nonsense. Of course there is an overseeing body. There is a thing called a court, which will adjudicate on whether the evidence that is brought before it can be used. Let us be clear: evidence obtained by compulsion cannot be used in a court. The ICAC and the DPP have to judge whether there is admissible evidence that can be brought before a court.

The Hon. Michael Gallacher: It's going to be so good that people will have to pay more legal fees.

The Hon. JOHN HATZISTERGOS: More legal fees will be expended if prosecutions have to be discontinued because the DPP was not consulted about the commencement of a prosecution. The bill provides that no proceedings will be commenced unless the DPP agrees in the first place. What is unreasonable about that? The same evidence that the DPP uses now to prosecute people referred from the ICAC will continue to be used. But under no circumstances will information be used unless the DPP has considered commencing proceedings, in accordance with the Independent Commission Against Corruption Act, as it is required to do. If the Opposition amendment is carried the current position will continue, which is that the ICAC can launch proceedings without the consent of the DPP.

The Hon. PETER BREEN [5.33 p.m.]: My understanding of the current procedure is that the ICAC launches its own prosecutions. The Minister suggested it has launched a few, but I understood there were a lot more than that. My understanding is that the DPP becomes involved when the matter is first mentioned in the court. The DPP then considers the brief and, in many cases, the practice seems to be that the application is withdrawn on the basis that—

The Hon. John Hatzistergos: Not always. Mostly they consult the DPP first.

The Hon. PETER BREEN: However, if there is a problem between the DPP and the ICAC, that is dealt with on the first court mention day. My understanding of proposed new section 116A is that the Government wants to authorise the ICAC to initiate proceedings, but only with the support of the DPP. The Opposition is suggesting that there should be no statutory right for the ICAC to initiate proceedings. At the moment the ICAC initiates proceedings according to their common law right, but the Opposition is concerned about giving them a similar statutory right. The Opposition maintains that neither the Police Integrity Commission nor the Crime Commission has any such statutory right.

The Hon. John Hatzistergos: No statutory right, but they have a common law right.

The Hon. PETER BREEN: But they have a common law right. I agree with the Opposition's concerns. The important principle is that these investigative bodies are investigators. They are like the police. If I had my way I would give the \$15 million that it costs to run the ICAC each year to the police, but, unfortunately, I am not in charge of such matters. The reality is that we should not give investigative bodies like the ICAC, which has extraordinary coercive powers, more power, such as statutory recognition of their right to commence statutory prosecutions. On that basis I support the Opposition.

Reverend the Hon. FRED NILE [5.35 p.m.]: The Leader of the Opposition said that new section 116A is badly worded. The Minister said it is based on the McClintock report, but it is different to his recommendation. Paragraph 3.8 of the report says, "whether or not in all circumstances it is of the opinion that consideration should be given to prosecution".

The Hon. John Hatzistergos: That is already in the Act.

Reverend the Hon. FRED NILE: The wording in the bill has been changed to "may commence proceedings", as if it is giving power to the ICAC that it may or may not have had. The McClintock report recommended that consideration be given to prosecution and to whether, in all the circumstances, the ICAC is of the opinion that the advice of the DPP should be sought. New section 116A should read, "give consideration before any prosecution but only if the Director of Public Prosecutions advises that it is appropriate to do so". The problem is that the words in the first part of the section are causing confusion. If the wording in the bill followed the wording of the recommendation we would not have this problem. The recommendation in the report even underlines the words "consideration should be given".

The Hon. John Hatzistergos: That is already in the legislation.

Reverend the Hon. FRED NILE: But it is not in the bill.

The Hon. John Hatzistergos: No, but it is already in the Act.

Reverend the Hon. FRED NILE: We are in a dilemma. We do not want to give this power to the ICAC, but the Minister claims that by voting for the Opposition amendment we will be doing that.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [5.37 p.m.]: The matter referred to by Reverend the Hon. Fred Nile is already in the Act. It is for the ICAC to form an opinion as to whether the DPP should consider launching prosecution proceedings against every person of interest who is being investigated by the ICAC. That is already covered by the legislation. The bill ties in the advice of the DPP with the commencement of the proceedings so that the two are married together. It may appear that the matter in the report referred to by Reverend the Hon. Fred Nile is not covered, but it is married with the other provisions that are already in the legislation, and that protection and that safeguard are there.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 24

Mr Breen	Ms Hale	Ms Rhiannon
Dr Chesterfield-Evans	Mr Jenkins	Mr Ryan
Mr Clarke	Mr Lynn	Mr Tingle
Mr Cohen	Reverend Dr Moyes	Dr Wong
Ms Cusack	Reverend Nile	
Mrs Forsythe	Mr Oldfield	<i>Tellers,</i>
Mr Gallacher	Ms Parker	Mr Colless
Miss Gardiner	Mrs Pavey	Mr Harwin
Mr Gay	Mr Pearce	

Noes, 17

Dr Burgmann	Ms Griffin	Mr Roozendaal
Ms Burnswoods	Mr Hatzistergos	Ms Tebbutt
Mr Catanzariti	Mr Kelly	Mr Tsang
Mr Costa	Mr Macdonald	<i>Tellers,</i>
Mr Della Bosca	Mr Obeid	Mr Primrose
Mr Donnelly	Ms Robertson	Mr West

Question resolved in the affirmative.

Amendment agreed to.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee with an amendment and passed through remaining stages.

PRIVILEGES COMMITTEE

Report

The Hon. Peter Primrose, as Chairman, tabled report No. 29, entitled "Report on Person Referred to in the Legislative Council (Ms S Scheff)", dated April 2005.

Ordered to be printed.

NOXIOUS WEEDS AMENDMENT BILL**In Committee**

Consideration resumed from 5 April 2005.

Mr IAN COHEN [5.51 p.m.]: I move Greens amendment No. 2:

No. 2 Page 4, schedule 1 [2], proposed section 7. Insert after line 8:

- (6) A catchment management authority must have regard to any weed control orders applying to its catchment management area when preparing a catchment management plan.

Catchment management authorities could be very effective, including in the control of weeds. However, at this stage it appears they could just become merely another reincarnation of the catchment management groups that have been restructured again and again by the State Government. The Government needs to make sure that the role of catchment management authorities is clearly defined, so that environmental management can take place at an efficient level. I commend the amendment to the Committee.

The Hon. HENRY TSANG (Parliamentary Secretary) [5.52 p.m.]: The amendment is not supported by the Government. It is not appropriate for the Noxious Weeds Act to place consultation requirements on catchment management authorities. That requirement is adequately addressed by other natural resource legislation. The Department of Primary Industries is in regular contact with the catchment management authorities and will make submissions on those plans as appropriate.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.53 p.m.]: The Opposition opposes the amendment. The catchment management authorities automatically have regard to weed orders applying to their area when preparing a catchment management plan in any event. The amendment is unnecessary and creates additional, unwanted and unnecessary administrative costs on the authorities, which already have very tight budgets, thanks to this Government.

Amendment negatived.

Mr IAN COHEN [5.54 p.m.]: I move Greens amendment No. 3:

No. 3 Page 17, schedule 1. Insert after line 12:

[22] **Section 56 Establishment of Noxious Weeds Advisory Committee and other advisory committees Insert at the end of the section:**

- (2) Without limiting subsection (1), the Minister is to establish a Noxious Weeds Advisory Committee.
- (3) The Noxious Weeds Advisory Committee is to consist of the following members appointed by the Minister:
- (a) a Chairperson nominated by the Department of Primary Industries,
 - (b) a person nominated by the Local Government Association of NSW,
 - (c) a person nominated by the Shires Association of NSW,
 - (d) a person nominated by the NSW Farmers Association,
 - (e) a person nominated by the State Council of Rural Lands Protection Boards,
 - (f) a person representing catchment management authorities,
 - (g) a person nominated by Nursery and Garden Industry NSW & ACT Limited,
 - (h) a person nominated by the Department of Environment and Conservation,
 - (i) a person nominated by the Department of Infrastructure, Planning and Natural Resources,
 - (j) a person nominated by the Department of Lands,
 - (k) a person nominated by Rail Corporation New South Wales,
 - (l) a person nominated by the Nature Conservation Council of New South Wales,
 - (m) a community representative.

- (4) The Noxious Weeds Advisory Committee has the following functions:
 - (a) to advise the Minister on all matters related to noxious weed control,
 - (b) to make recommendations to the Minister about funding for noxious weed control and the provision of funding to local control authorities,
 - (c) to make recommendations as to plants to be made subject to weed control orders.
- (5) Schedule 1 has effect with respect to the Noxious Weeds Advisory Committee.

The Greens are concerned that the Noxious Weeds Advisory Committee, established by section 56 of the Act, has no security of existence. It has been established by the Minister and can be dissolved by the Minister. The advisory committee should be given independent status in order for it to be able to provide independent advice to the Minister regarding weed control matters in New South Wales. At present, the role and method of operation of the committee is contained in policy, which can be changed by the Minister without any parliamentary scrutiny. The Greens believe that the committee should be recognised within the legislation and that its diversity of representation be contained within the legislation to ensure a balanced and diverse set of interests is taken into account in determining the weed policy for the State.

The composition of the advisory committee should also be reviewed. With the exception of three members, the committee is composed of government agency personnel who, when asked to express opinions on controversial issues or bring about changes in policy and procedure, are understandably reluctant to do so. This, in effect, makes the committee a paper tiger. The Greens believe that the membership categories should be reviewed to make the committee more representative of community interests as opposed to only government interests. I commend the amendment to the Committee.

The Hon. JON JENKINS [5.55 p.m.]: I move:

That Greens amendment No. 3 be amended by omitting the words "nominated by the Nature Conservation Council of New South Wales", and inserting instead "who is an independent scientist".

The advisory committees can be very good or very cumbersome. Appointments to advisory committees should be based on merit and on principles that the appointee takes to that committee. The appointment of a member of a lobby group with a particular ideology is not a good reason for appointment to the advisory committee. If a person has some scientific expertise or other contribution to make I would support that appointment. However, in this case the person appointed should be an independent scientist and not someone from the Nature Conservation Council.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.56 p.m.]: The Opposition opposes Greens amendment No. 3. The current advisory committee seems to be working well, and is subject to the Minister's control. The proposed change would increase red tape. The Opposition is satisfied with the make-up of the committee; it includes the Local Government and Shires Associations, the New South Wales Farmers Association, rural lands protection boards, the Nature Conservation Council, Total Catchment Management, the National Trust and the Department of Lands. Of that group only one organisation wants a change—the Nature Conservation Council—and that has prompted the Greens to move the amendment. The Opposition does not believe that is enough reason to change the make-up of the committee and it would involve unforeseen costs. Honourable members should remember that the House cut \$37 million from the budget of the Department of Primary Industries last year, \$58 million was cut this year and \$58 million will be cut next year. The Government cannot even find \$900,000 to continue funding the monitoring of rivers to help the shellfish industry. In those circumstances, the Opposition cannot support the Greens amendment. I understand that the Government will not support the amendment moved by the Hon. Jon Jenkins to Greens amendment No. 3, nor will the Opposition.

Mr IAN COHEN [5.58 p.m.]: Whilst I appreciate the position stated by the Opposition, the lack of funding in itself is not an argument. I acknowledge the paucity of largesse of the Government towards similar organisations in the rural sector that undertake an important role. The Opposition spokesperson might disagree with much of what the Nature Conservation Council does, but it is still a representative and peak environmental body in New South Wales.

The Hon. Duncan Gay: We did not ask to have it taken off.

Mr IAN COHEN: I appreciate that.

The Hon. Duncan Gay: We do not want its representation increased.

Mr IAN COHEN: That is a fair comment. There are other groups, such as the nursery industry body, which is represented on the Noxious Weeds Advisory Committee. So why should a representative of the environmental movement not be on the committee? I am sure the Deputy Leader of the Opposition concedes that it has a significant role to play. Weeds have a great impact on our environment. As the Nature Conservation Council is a peak environment body it is an appropriate representative. The Nature Conservation Council has a history and a reputation for recommending reputable representatives on committees, for example, the current representative on the Noxious Weeds Advisory Committee who is a lawyer.

I refer to the superficial interpretation of this legislation by a non-representative member in this Chamber. He does not recognise this peak body and has moved an amendment calling for an independent scientist to be on the committee. All the major players and representative parties that are taking part in this debate and that have some degree of legitimacy represent conservation or farming bodies in the rural sector. They recognise the importance of having a balanced committee. The amendment moved by the Outdoor Recreation Party shows a superficiality of understanding in relation to this issue.

The Hon. JON JENKINS [6.01 p.m.]: I did not say that the independent scientists could not be members of the Nature Conservation Council. I did not exclude them from belonging to the committee. I said that the person who selected the committee on the basis of environmental science should be there as an environmental scientist, or as a scientist.

The Hon. HENRY TSANG (Parliamentary Secretary) [6.02 p.m.]: The Government does not support Greens amendment No. 3 and the amendment to that amendment moved by the Outdoor Recreation Party, which proposes a recognition of the compensation and terms of reference of the Noxious Weed Advisory Committee. The Deputy Leader of the Opposition said that under section 56 the Act already allows for the creation of statutory advisory committees and the bill does not alter that. A Noxious Weeds Advisory Committee has been in existence for decades. I advise Mr Ian Cohen and other honourable members that the Government intends to maintain this committee and its functions with its current membership for the foreseeable future.

The committee provides advice, ensures standards of weed control and monitors the implementation of the New South Wales weeds strategy. Spelling out the membership and policy of the committee in the Act would limit its ability to develop improved policies and adapt to changing circumstances. The bill proposes to define the objectives of the Act and, as such, will provide a clearer direction for the committee. Whilst only the Noxious Weed Advisory Committee has been appointed under the Act, other bodies can be appointed for specific needs if required.

Amendment of amendment negated.

Amendment negated.

Mr IAN COHEN [6.03 p.m.], by leave: I move Greens amendments Nos 4, 5 and 6 in globo:

No. 4 Page 18, schedule 1 [28], line 14. Omit all words on that line. Insert instead:

Omit section 76 (2). Insert instead:

- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act and at the end of each period of 5 years thereafter.

No. 5 Page 18, line 14. Insert after the line.

[29] **Section 76 (3)**

Omit "the period". Insert instead "each period".

No. 6 Page 18, schedule 1 [32]. Insert after line 33:

- (2) Before making the first weed control order on the commencement of Part 2, as so inserted, the Minister must consider the suitability of all plants that were noxious weeds on the date of assent to this Act for inclusion in a weed control order.

Amendments Nos 4 and 5 provide for the ongoing review of the noxious weeds legislation. Precious little monitoring is going on now, especially with regard to the expenditure of public funds and the efficacy of the programs being undertaken. We must retain a section about reviewing the Act so it is monitored and we know whether it is achieving its objectives and whether the terms of the Act remain appropriate for securing those objectives. Amendment No. 6 will guarantee that the Minister will look at the entire current list of weeds when considering suitability for weed control orders. This will ensure a smooth transition between the current list and the weed control orders. It will ensure that no weeds drop off the list and are not considered. I commend Greens amendments Nos 4, 5 and 6 to the Committee.

The Hon. HENRY TSANG (Parliamentary Secretary) [6.05 p.m.]: The Government supports Greens amendments Nos 4, 5 and 6.

The Hon DUNCAN GAY (Deputy Leader of the Opposition) [6.05 p.m.]: The Opposition also supports Greens amendments Nos 4, 5 and 6. Amendment No. 4 refers to a review of the Noxious Weeds Amendment Act every five years, which is laudable. The rationale is that it will ensure that the Act remains current, workable and flexible. As Minister during that five-year period I would be happy to do that. Amendment No. 6 is an administrative amendment that is consequential on amendment No. 5. The Opposition has no problem with amendment No. 6.

Amendments agreed to.

Schedule 1 as amended agreed to.

Title agreed to.

Bill reported from Committee with amendments and passed through remaining stages.

ROAD TRANSPORT (GENERAL) BILL

Second Reading

Debate resumed from an earlier hour.

Reverend the Hon. Dr GORDON MOYES [6.08 p.m.]: The purpose of this bill is to implement the legislative scheme in New South Wales for the compliance and enforcement of mass, dimension and loading requirements for heavy vehicles. This legislative scheme is based upon the national model provisions that have been approved by the Australian Transport Council. The national model provisions have been introduced in order to set up nationally consistent laws on road transport. The bill also repeals and re-enacts the Road Transport (General) Act 1999 so as to include the national model provisions and also to co-ordinate existing provisions in a clearer manner. Consequential amendments are also made to other Acts. Generally the bill is commendable. However, I note the comments made by the Legislative Review Committee that expressed some concern about certain aspects of the bill. I will deal with those concerns at some point during my speech.

This bill is lengthy, consisting of more than 200 pages of legislative provisions. That is no surprise given that the bill repeals and re-enacts the existing Road Transport (General) Act 1999, which is also lengthy. The existing legislation deals principally with the administration and enforcement of road transport legislation and the use of vehicles on roads and road-related areas. The bill introduces some important initiatives that are significant to all those who work in the heavy vehicle industry. The bill seeks to improve compliance within the heavy vehicle industry regarding road restraint, mass and dimension requirements for heavy vehicles and fatigue and driving hour obligations.

My drivers licence is different from those of most other honourable members, with the exception of the Hon. Tony Catanzariti and the Hon. Duncan Gay. My licence, like that of the Hon. Duncan Gay, declares that I am licensed to drive heavy vehicles and articulated vehicles, such as semitrailers. Since training and gaining a heavy vehicle licence I have held in high regard those in the heavy vehicle industry. I am glad that the Hon. Duncan Gay has a similar licence because it means there is a career for us after Parliament!

How does the bill seek to achieve its stated aims? It does this by extending liability for breaches of requirements from truck drivers and/or operators to consignors, loaders, packers and owners—the principal players through whom work in the transport supply chain is conducted. The extension of liability to the supply

chain is based upon a recommendation by the National Transport Commission, and we approve of it. Drivers should not be the only persons held responsible when the law is not observed. The Parliamentary Secretary gave a specific example in the second reading speech when he stated:

... under this new regulatory framework, those other parties in the transport chain who by their actions, inactions or demands put drivers and other road users at risk and gain unfair commercial advantages may also be committing an offence and liable to substantial penalties.

We support this move. It is well known that operators or drivers in the trucking industry apply pressure to induce maximum performance in minimum time. Long and unreasonable hours are a hallmark of this industry. Working conditions are reportedly atrocious. Demands by operators have prompted drivers to delve into drug use in order to meet expectations. This bill will keep some rein on the demands placed on drivers by increasing the accountability of operators. In this context it is of the utmost importance to mention that the bill recognises that not all offences pose the same degree of risk to safety. Thus penalties are suitably tailored to meet the nature of the offence committed. For example, the bill distinguishes between first-time offenders and systemic offenders. Those who have constantly flouted legislative requirements will be liable for significant sanctions.

The Legislation Review Committee considered the strict liability nature of the offences potentially attributable to individuals such as consignors, packers, loaders, operators and drivers. The bill makes such individuals liable for offences regarding the mass, loading and dimension requirements of heavy vehicles, many of which are committed when the driver takes the vehicle onto the road. The bill makes such individuals liable regardless of whether they intended to break the law or even knew of the offence. In most instances a defence of mistaken and reasonable belief is not acceptable. However, the bill provides various reasonable steps defences, which essentially provide that a person is not liable for a contravention if that person took all reasonable steps to prevent the contravention. The committee indicated that it did not consider that the extended and strict liability provisions in the bill trespass unduly on personal rights and liabilities.

The bill establishes special requirements for the transport of containers by road. For example, under the bill a person defined as the "responsible entity" must provide accurate container weight declarations. The responsible entity is the person in Australia who consigns the container for transport or otherwise arranges its transport by road. Without a container weight declaration a driver is not permitted to transport the container. Once drivers and operators are aware of the weight of the container they are able to select the most suitable vehicle to transport it. Those who are responsible for a mass, dimension or load restraint offence will be liable unless a defence applies. If the defendant is able to establish that he or she did not know and could not reasonably be expected to know of the contravention and took all reasonable steps to avoid the breach, the defendant will escape liability. The reasonable steps defence provided by the bill for mass offences for drivers, operators and owners constitutes a departure from the model scheme. The model bill provides this defence for minor risk breaches only. The second reading speech states:

... the new penalty regime is anticipated to act as a better deterrent to those who have been willing to break road transport rules for unfair commercial gain.

The regime is based on administrative and court-based penalties. Administrative penalties will be administered by the Roads and Traffic Authority [RTA] and may include improvement notices, which identify improvements that a business can make to its systems to ensure compliance with legislation. Formal warnings may also be given in cases where there have been minor breaches. Court-based penalties and infringements will apply for specific offences. Courts will have the power to impose a range of sanctions, including intervention orders, licensing and registration sanctions, prohibition orders and commercial benefits penalties. The bill has adopted the model national provisions, which allow recognition and enforcement in New South Wales of court-imposed and administrative sanctions that apply in other Australian jurisdictions, and vice versa. This is a long overdue requirement.

We all recognise that heavy vehicle driver fatigue is a factor that plagues road safety in New South Wales. It is highly tenable that driver fatigue has contributed to many deaths on New South Wales roads. Professor Michael Quinlan of the University of New South Wales conducted an inquiry into safety in the long-haul trucking industry. In 1999 he released a report on the results of this inquiry, stating:

... truck driving remains one of the most dangerous occupations and these risks extend, in a substantial way, to other road users.

In 1999, 189 Australians—including 51 truck drivers—died in crashes involving articulated trucks. It is a sobering experience to pull off the Hume Highway at Holbrook en route to Melbourne to see the national memorial commemorating those truck drivers who have died on our roads over the years and to read all their names. Professor Quinlan also noted:

... as the most populous state and as the hub of interstate transport on the eastern seaboard, NSW recorded the largest number of deaths (64 including 13 truck drivers) in 1999.

We must do all we can to reduce the number of deaths on our roads. The bill will give greater enforcement powers to authorised officers to gather evidence and investigate or pursue relevant parties for offences relating to things such as fatigue but also mass loading and dimensions. The second reading speech indicates that these powers will be made available to specially trained officers of the RTA. In certain circumstances authorised officers will also be able to stop, direct or move a heavy vehicle.

The bill gives the Roads and Traffic Authority additional powers to search business premises with a warrant or by consent and to search trucks. The ability to search is conditional upon whether the officer believes on reasonable grounds that there is evidence of an offence or the vehicle connected with the premises has been involved in an accident causing death or personal injury or damage to property. The inspection and search powers will not apply to unattended or residential premises without consent or a warrant. As the second reading speech states:

... for the first time, officers will be able to search heavy vehicle cabins on the roadside without a warrant if a breach of road transport legislation is suspected. Authorised officers will also be empowered to direct responsible persons to produce records, transport documentation, or information about a vehicle, combination, or load and to require reasonable assistance in performing their duties.

We are very happy with these requirements. The Legislation Review Committee expressed concern that the bill does not specify any requirements or qualifications for the authorised officers appointed by the RTA under the bill. The committee indicated that the road transport legislation confers a wide range of powers on authorised officers, including the power to search vehicles and business premises, detain vehicles, seize records, issue penalty notices and issue improvement notices. It is important for the RTA to have specifically delineated requirements for the appointment of such people, given that these individuals will impede to some degree the rights and liberties of citizens at large.

The committee has indicated that it has written to the Minister to seek his advice as to why an authorised officer need not be a member of staff of a public authority, and there are no other requirements regarding the qualifications or attributes of persons who may be appointed as authorised officers under the bill. The bill will be immensely improved if those matters are quantified. Most significantly, whistleblower protection will be catered for in the bill to protect people who assist with investigations. The Christian Democratic Party supports the bill.

The Hon. JON JENKINS [6.20 p.m.]: I have had extensive experience in consulting with the trucking industry. I have attended trucking blockades on the Pacific Highway and have spoken at length with representatives of the owner-driver's association. Although the bill has many good provisions, it does not really address the major problems in the trucking industry. Truckies have raised with me four problems. The payment paid to truckies per kilometre from Sydney to Brisbane is reasonable. However, the payment for a trip from Brisbane back to Sydney is less than the cost of the fuel required for the return trip. This causes drivers to breach the law to do as many trips as possible in order to make a decent living. The Quinlan report, which was referred to by Reverend the Hon. Dr Gordon Moyes, recommended a basic rate for all truck operations, but that recommendation has been ignored and has not been provided for in the bill.

Truckies are penalised for being late, often because of circumstances that are well beyond their control. To avoid any penalty truckies breach the law in order to make up time. This problem is not resolved by the bill. No penalties should apply for a driver being late. The third concern of truckies may seem trivial to some but I can assure members that for the driver of a truck that travels long distances it is extremely serious. In hot weather, particularly in the western areas of the State in summer time where temperatures often reach 40 degrees, the temperature in the sleeping quarters of some trucks can exceed 50 degrees. There is no way in the world that a truck driver can sleep, or achieve effective sleep, in temperatures of 50 degrees and more. I realise, however, that there is no practical solution to the problem—perhaps the use of shades similar to those on a caravan could be encouraged.

To the many people who do not understand how the trucking industry works I will explain the most serious problem confronting owner-drivers. A truck might have to queue for from two to four hours waiting to loaded. Quite often that time is entered in the log book as sleep time. Obviously it is not. A driver will then load his truck and cover the load with a tarpaulin. The time spent doing this is also logged in as sleep time. The driver will then travel from Sydney to Brisbane, for example, where he will join another queue to unload. If the time window is missed, the driver may have to queue for a longer period. This time is also noted as sleep time in

the log book. The driver may partially unload—again logged in as sleep time—replace the tarpaulin and drive to another location, join another queue, open the tarpaulin and unload the remainder of his load. All this time entered as sleep time in the log book. The driver may then have to join another queue for two to four hours for a back load to Sydney. This time is also entered logged in as sleep time. All in all, drivers are logging in as sleep time the time spent doing things that require them to be awake. Truckies are driving from Sydney to Brisbane and return without any sleep at all when their log books show them as having had six to eight hours sleep.

I have suggested a solution to this problem several times already. Some sort of GPS monitoring system or electronic monitoring mechanism should be fitted to trucks to monitor the whereabouts of trucks and their activities. I understand that is being considered by the Government.

The Hon. Duncan Gay: It will not monitor whether the drivers are asleep or awake.

The Hon. JON JENKINS: But it will monitor the trucks and what they are doing. The bill makes no attempt to address any of those major problems in the owner-driver trucking industry.

The Hon. HENRY TSANG (Parliamentary Secretary) [6.24 p.m.], in reply: I thank honourable members for their support and commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 5 and 6 postponed on motion by the Hon. Henry Tsang.

CIVIL LIABILITY AMENDMENT (OFFENDER DAMAGES) BILL

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [6.26 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 introduces minor amendments, mostly of a procedural nature, to clarify the operation of Part 2A of the *Civil Liability Act 2002*.

Part 2A (Special provisions for offenders in custody) was inserted into the Act by the *Civil Liability Amendment (Offender Damages) Act 2004*.

When the *Civil Liability Amendment (Offender Damages) Act 2004* was passed by Parliament, a senior officers inter-agency working party was formed to establish the administrative arrangements for the operation of the Act—principally, the procedures for obtaining a medical assessment of permanent impairment using the WorkCover Guidelines, and for disputing and appealing against a medical assessment.

This Bill makes minor consequential amendments to Part 2A to clarify its operation and simplify certain processes, as identified by the working party.

I now turn to the detail of the Bill.

Schedule 1 [1] extends the definition of an "offender in custody" to include persons who are attending a place in compliance with the requirements of a community service order, as well as persons who are performing community service work.

This is a commonsense provision which extends the operation of the offender damages scheme to persons who are injured after arrival at a work-site but before commencing community service work; and to persons who are injured when reporting to an office of the Probation and Parole Service as required by a court—for instance, being assaulted there by another offender.

Schedule 1 [2] omits section 330 of the *Workplace Injury Management and Workers Compensation Act 1998* from the Part of that Act imported into Part 2A of the *Civil Liability Act 2002*.

Schedule 1 [3] provides that the Minister administering the *Crimes (Administration of Sentences) Act 1999* may, by order published in the Gazette, issue Guidelines in respect of the same kinds of matters for which the WorkCover Guidelines may make provision. The Minister may also apply, adopt or incorporate (wholly or in part or with or without modifications) the provisions of the WorkCover Guidelines.

The WorkCover Guidelines are issued under Part 7 of Chapter 7 of the 1998 *Workers Compensation Act*, and are therefore imported into Part 2A of the *Civil Liability Act 2002* by section 26D(1).

The *WorkCover Guides for the Evaluation of Permanent Impairment* (which provide for the medical criteria by which an impairment is to be assessed) can be applied to Part 2A medical assessments either without modifications or with very minimal modifications.

The *WorkCover Medical Assessment Guidelines* (which provide for the administrative process of obtaining and disputing a medical assessment) will require a number of modifications and additions before they can be applied to Part 2A. For example, matters for which Guidelines might be issued include security arrangements for an inmate undergoing a medical assessment (including provisions for correctional officers, who may accompany an offender undergoing a medical assessment).

Schedule 1 [5] of the Bill makes it clear that in section 67(4) of the *Workers Compensation Act 1987* (imported into the *Civil Liability Act 2002* by section 261), a reference to "the Commission" is taken to be a reference to the court.

Schedule 1 [6] provides for the payment of interest on amounts of damages withheld from offenders pending the finalisation of a provisional order for Victims Compensation Restitution, and that a protected defendant may require the Public Trustee to hold the withheld amount on its behalf. The protected defendant must require the Public Trustee to hold the withheld amount if the offender requests it. This provision ensures openness and transparency. Sometimes an order for victims compensation restitution may be made for a lesser amount than a provisional order for restitution—for instance, a provisional order for restitution in which an offender is jointly and severally liable with co-offenders for the full amount of compensation paid to a victim, may be replaced by a final order for restitution under which the offender is solely liable for a lesser amount. The amendments clarify the payment of interest in such circumstances.

The remaining amendments are procedural in nature.

I commend the Bill to the House.

The Hon. DAVID CLARKE [6.27 p.m.]: The Civil Liability Amendment (Offender Damages) Bill makes minor amendments to clarify the operation of part 2A of the Civil Liability Act 2002 and is not opposed by the Opposition. Part 2A contains special provisions for offenders in custody and was added to the Civil Liability Act 2002 by way of the Civil Liability Amendment (Offender Damages) Act 2004, which was passed to ensure that damages awarded to offenders in custody or whilst performing community service work are not greater than those available to workers in the community who suffer the same type of injury.

Specifically, the bill amends the Civil Liability Act 2002 by making it clear that the definitions of "offender in custody" or "offender" in section 26A include persons who are attending a place in compliance with the requirements of a community service order, as well as persons while they are performing community service work. The effect of the amendment is to extend the offender damages scheme to include persons who are injured after arrival at a work site but before commencing community service work, and to persons who are injured when reporting to an office of the Probation and Parole Service, as required by a court.

Schedule 1 [2] omits section 330 of the *Workers Compensation Act 1998* from that part of the Act imported into part 2A of the Civil Liability Act 2002. Schedule 1 [3] amends the principal Act to provide that the Minister administering the *Crimes (Administration of Sentences) Act 1999* may issue guidelines in respect of the same kinds of matters for which the guidelines may make provision. The Minister may also apply, adopt or incorporate provisions of the WorkCover guidelines. WorkCover guidelines for the evaluation of permanent impairment can be applied to part 2A, Medical Assessments, either without modification or minimal modification.

Schedule 1 [5] amends the Act to clarify that section 67 (4) will apply as if reference to "the Commission" were a reference to the court. Schedule 1 [6] inserts a new subsection to provide for the payment of interest on damages withheld from offenders pending finalisation of a provisional order for victims compensation restitution, and that a protected defendant may require the Public Trustee to hold the withheld amount on its behalf. The protected defendant must require the Public Trustee to hold the withheld amount if the offender requests it, the purpose of this being to ensure transparency. As I have said, the Opposition does not oppose this bill.

Reverend the Hon. Dr GORDON MOYES [6.31 p.m.]: On behalf of the Christian Democratic Party I commend the Civil Liability Amendment (Offender Damages) Bill, the purpose of which is to amend the Civil

Liability Act 2002. The amendments proposed are of a minor nature and specifically target part 2A of the Act, which deals with special provisions for offenders in custody. I commend the bill. However, I note the comments of the Legislation Review Committee on the retrospectivity of the legislation. I will express my view on those comments later in my speech.

Part 2A of the Civil Liability Act 2002 was introduced by the Civil Liability Amendment (Offenders Damages) Act 2004. The 2004 Act established a fault-based negligence scheme for inmates, periodic detainees, home detainees and offenders performing work under a community service order. The Act imposed restrictions on the damages that can be recovered by a person for injury resulting from the negligence of a "protected defendant" suffered while the person was an "offender in custody". Examples of protected defendants include the Crown and government departments. The underlying intention of the bill is to clarify the operation of part 2A. Honourable members will recall some glaring examples of apparent injustice mentioned in the press in the past few months.

I will point out some of the more salient aspects of the bill. The bill expands the definition of an "offender in custody" to include persons who are attending a place in compliance with the requirements of a community service order, as well as while they are performing community service work. This is an important addition. Over the many years I have been superintendent of Wesley Mission I have been responsible for many offenders who worked with the Wesley Mission doing community service work. Any injury to them while they were under our responsibility was a serious matter for us.

A report released by the Australian Bureau of Statistics in December 2004 indicated that in the September quarter of 2004 there were 51,495 persons in community-based corrections in Australia, an increase of 2 per cent since the September quarter of 2003. Nationally, the rate of persons in community-based corrections was 335 persons per 100,000 adult population for the September quarter of 2004. The male rate of participation in community-based corrections was 553 per 100,000 adult male population, in comparison to 118 females per 100,000 adult female population. Males thus were five times more likely than females to be in community-based corrections. Given these statistics, it is important that the liability legislation relating to offenders in custody is clear and well defined.

The WorkCover guidelines are issued under part 7 of chapter 7 of the 1998 Workers Compensation Act. They are imported into part 2A of the Civil Liability Act by virtue of section 26D (1). The bill allows the Minister administering the Crimes (Administration of Sentences) Act 1999 to issue guidelines regarding the administrative processes relating to medical assessments for injury. Thus, it is envisaged that the WorkCover Medical Assessment Guidelines may be used subject to certain modifications in order to make the guidelines more relevant to the instant setting. For example, in cases that concern offenders in custody, security arrangements need to be detailed for an inmate undergoing a medical assessment. Other incidental amendments are made in this context. Amendments are proposed in the bill to enable the Public Trustee to hold an amount of withheld damages up until the time a final order for restitution is made. The bill also provides for interest to be paid pro rata to the Victims Compensation Fund and the offender in cases where the final order for restitution is made for a lesser amount than the provisional order for restitution.

Lastly, I would like to refer to comments made by the Legislation Review Committee in relation to the retrospective aspect of this bill. But I must explain the context first. The bill proposes to add a new part 6 to schedule 5 to the Act. This part provides that part 2A applies to any civil liability whether arising before, on or after the commencement of the bill, and to proceedings instituted before such commencement. However, it is said that these changes do not operate to apply to part 2A in respect of any decision of a court made before the commencement day or in relation to any civil liability or proceedings to which the part did not apply immediately before the commencement day. Clearly then, the legislation will apply to proceedings commenced before the current bill is assented to, given that "proceedings" do not fall within the ambit of a "decision".

The Legislation Review Committee has indicated that although the second reading speech on the 2004 Act noted that its retrospective application was "necessary to prevent a flood of speculative claims", this concern may not be applicable to amendments proposed by the current bill. Consequently then, the committee has expressed its concern that the changes proposed "may nonetheless directly and adversely affect the compensation rights of individuals under that Act" and has written to the Minister seeking his advice as to the need for the retrospective application of the proposed amendments to part 2A of the Civil Liability Act 2002.

I am not a fan of retrospective legislation in general, a sentiment that I would expect would be shared by most honourable members of this House. In my opinion, when people are in the midst of making decisions

whether or not to initiate legal proceedings, they should be able to trust in the fact that the applicable law will remain the same. This is important because the solicitor of the potential litigant will consider the person's situation in light of the current law and provide advice accordingly. When the law changes retrospectively people who may have commenced proceedings inevitably will find themselves in a predicament. For example, they may not be in a position to defend their case. As to the concerns that have been raised, I rely upon the Minister, who has been contacted on this matter of retrospectivity, to make some clear statements to members of this House before we vote on this issue at the third reading of the bill. But, generally, speaking, the Christian Democratic Party supports the Civil Liability Further Amendment (Offender Damages) Bill.

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [6.38 p.m.], in reply: I thank honourable members for their contributions to the debate and for their support of the bill. I will address the issue that was raised by Reverend the Hon. Dr Gordon Moyes. The retrospective provisions highlighted by the Legislation Review Committee apply to the provisions of this bill to persons who have already lodged a claim for damages under part 2A of the Civil Liability Act 2002. They do not apply to any litigants who are not already subject to the provisions of this Act, that is, litigants who commenced litigation before the Civil Liability Amendment (Offender Damages) Act 2004 applied.

The retrospective provisions of the bill are justified so that the Act applies consistently to all persons who have already lodged a claim, and those who may subsequently lodge a claim, under part 2A of the Civil Liability Act 2002. The committee's comments refer to changes introduced by proposed new clause 18 to schedule 1 of the Civil Liability Act 2002. Proposed new clause 18 is consistent in its terms with clause 15 to schedule 1 of the Act, which relates to amendments introduced by the Civil Liability Amendment Act 2003.

Subclauses (1) and (2) of clause 18 must be read in conjunction with the qualifications in subclause (3). The proposed amendments will apply only to matters to which part 2A of the Act already apply immediately before this amending Act commences. In particular, the amendments will not apply to any of the circumstances described in paragraph 10 of the draft *Legislation Review Digest*, because those circumstances are excluded already from the operation of the Act. The proposed legislation has retrospective effect for good reason—to apply consistently and fairly to all claimants. The retrospective effect of the legislation is that persons who have brought a claim under the existing legislation, which was assented to on 19 November 2004, are treated consistently with persons who bring a claim after the legislation commences. Neither group is advantaged or disadvantaged against the other. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

WATER EFFICIENCY LABELLING AND STANDARDS (NEW SOUTH WALES) BILL

Second Reading

The Hon. ERIC ROOZENDAAL (Parliamentary Secretary) [6.42 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.

We are currently in the grip of the worst drought for 100 years. Sydney's water storages are down to 43.1 per cent of capacity and Warragamba Dam, Sydney's major source of water, is down to approximately 39.2 per cent. This is the lowest level of water storage since construction of the dam was completed in 1960. Although the current drought will eventually break, the Government believes that the effects of climate change will result in warmer weather conditions, less rainfall and higher incidences of drought in the future. Dr James Hansen from the NASA Goddard Institute for Space Studies has calculated that the global average surface temperature has already increased by about 0.75 degrees Celsius, and that there is an irreversible increase of 0.7 degrees on the way. CSIRO research indicates that droughts in New South Wales will become more frequent and more severe as the effects of climate change become more pronounced.

It is estimated that Sydney's population will increase by 1 million people in the next 25 years. This means around 33 per cent more water needs to be found to sustain this increase if we continue to consume water at the current rate. In October last year, the Government announced the Metropolitan Water Plan. The Metropolitan Water Plan is a comprehensive plan to secure Sydney's water needs sustainably for the next 25 years in the face of climate change and population growth. The bill will implement one of

the most important and effective components of the plan and will give effect in this State to a nationally consistent Water Efficiency Labelling and Standards [WELS] scheme.

The purpose of the WELS scheme is to conserve water supplies by reducing water consumption through the adoption of water efficient appliances; to provide appliance efficiency and performance information to purchasers of water appliances to allow them to make a well-informed purchasing decision; and to promote the adoption of efficient and effective water-use technology. The bill also honours an election commitment by the Government in the last election to support a national scheme of performance measures for household water appliances. Residential water use accounts for 70 per cent of water consumption in the Sydney Basin. Increasing the efficiency of residential water use by promoting more efficient appliances will make a significant contribution to lowering Sydney's water consumption.

Cost-effective technologies to increase water efficiency are readily available but are not widely adopted because there is a lack of information at the point of sale about water appliance efficiency. Where this information is available it is often not in the form that would allow a consumer to directly compare the efficiencies of two competing appliances. A lack of accessible information at the point of sale is a significant barrier to the uptake of water efficient products. The WELS scheme aims to inform consumers about the relative efficiency of products. Making this information readily available will encourage manufacturers to produce, and consumers to buy, more efficient appliances. In this way, the requirement to label appliances helps shift the market towards more efficient appliances.

The proposed legislative approach is a Commonwealth-led legal framework, supported by mirror State and Territory legislation. Under this approach, the Commonwealth legislation would apply to corporations and importers. The State and Territory legislation would apply to businesses that are beyond the limit of Commonwealth constitutional power, such as unincorporated businesses. The Commonwealth's Water Efficiency Labelling and Standards Bill 2004 was passed by the Senate on 8 February 2005 and is awaiting assent. The legislation adopted by States and Territories will provide for the conferral of relevant powers and functions on a Commonwealth-based WELS regulator. The regulator will oversee the registration of WELS products to which the mandatory labelling and standards provisions apply, and will monitor and enforce compliance with the scheme.

Water-use products such as clothes washers and water-saving products such as waterless urinals may be determined to be WELS products by the relevant Commonwealth Minister in consultation with the States and Territories. WELS products cannot be sold unless they have been registered with the regulator. The bill contains a provision enabling New South Wales to pass a regulation that would prevent such a determination from having effect in this State. It is not expected that this provision would be used other than in circumstances where there are compelling reasons for doing so. The WELS scheme may require registered products to be labelled. Product labels must be designed in accordance with the WELS scheme standard and show the water efficiency rating and general performance rating of the product.

The WELS scheme may also establish minimum standards for WELS products in relation to water efficiency and general performance. A product that does not meet the minimum standards will not be registered by the regulator and therefore cannot be sold in the jurisdictions that have adopted the WELS scheme. The scheme is expected to commence voluntary participation from July 2005, with mandatory requirements commencing July 2006. This voluntary labelling period of 12 months is to provide time for manufacturers to test and register more than 3,000 appliances and fixtures so as to meet the requirements of the scheme. The 12-months voluntary period will also provide distributors and retailers of WELS products with an adequate opportunity to adjust their product range by the time the WELS scheme becomes mandatory, that is, on 1 July 2006.

From 1 July 2006, it will be an offence to supply a WELS product that is not registered, that requires labelling in accordance with the standards and is not labelled, and that does not meet minimum WELS standards for water efficiency and minimum general performance. The bill also specifies offences in relation to the active misuse of WELS standards and related information. The regulator may seek an injunction in the Federal Court to prevent a person from engaging in an activity that is contrary to the Act. Inspectors may be appointed by the regulator to determine whether a person is complying with the Act, or to investigate a possible offence. If necessary, an inspector may apply to a magistrate for a warrant to enter premises used for, or connected with, the supply of WELS products.

A regulator may require a person, by means of a written notice, to provide WELS-related information to an inspector or to appear before a WELS inspector. Failure to provide information to, or failure to appear before, an inspector is an offence. The regulator may cancel or suspend the registration of a WELS product if the conditions of registration are not complied with and the information provided to support the application was not accurate or is no longer accurate because of changes to the product. A person whose application to register a WELS application has been rejected or who has had a WELS registration suspended or cancelled may seek an internal review by the regulator of the regulator's decision. Such a person may also seek a review of the regulator's decision by the Administrative Appeals Tribunal.

It is proposed that the WELS scheme will initially include mandatory registration and labelling for showerheads, clothes washers, dishwashers, toilets and taps. Additional products such as evaporative cooling units and water heating and storage units could be brought into the scheme at a later stage. New products proposed for inclusion in the scheme would be subject to cost-benefit analysis and public consultation. The WELS scheme will initially apply a minimum standard only to toilets for which a plumbing standard already exists. This will not impact adversely on Australian manufacturers since toilets manufactured in Australia are already efficient dual-flush systems. The minimum standard will prevent the import of single-flush toilets. The Department of Energy, Utilities and Sustainability will administer the scheme in New South Wales. The department already administers the National Appliance and Equipment Energy Efficiency Program.

There are close synergies between the Energy Labelling Scheme and the proposed WELS scheme. Retailers stock both energy and water-using appliances, and some appliances—washing machines and dishwashers—will carry energy and water-efficiency labels. Having the two schemes administered by the one agency will enhance efficiency. The benefits of introducing the WELS scheme are impressive. It is estimated that water savings will increase each year to almost 29 billion litres of water savings in 2023 in this State alone. The net saving for New South Wales water consumers over those 18 years is \$225 million. Not only will water consumption be reduced but energy usage in showering, dishwashing machines and clothes washers will also be reduced. Less energy is required to heat the lower volume of water. By encouraging manufacturers to produce, and purchasers to buy, more efficient appliances, the WELS scheme will help water users to save money on their water and energy bills.

There are other benefits to the community from a reduction in water and energy consumption. Reduced water consumption will ease the pressure on our stressed urban water catchments and free up more water to potentially increase environmental flows. It would also reduce the energy required to pump, treat and dispose of water and wastewater. The energy savings generated by the WELS scheme are estimated to produce a reduction in greenhouse gas emissions of 570,000 tonnes annually within 18 years. The WELS scheme is one of a suite of measures to increase water supply and reduce the requirement for water in the Sydney region under the Government's Metropolitan Water Plan. Building more dams is not the answer when more cost-efficient, environmentally-friendly and easy-to-implement measures are available to secure Sydney's longer-term water requirements.

On the supply side these measures include accessing deep water at the bottom of dams which is not currently accessible, thereby adding up to six months water supply for Sydney; capturing the high flow water that runs over the Tallowah Dam on the Shoalhaven River and transferring it to Warragamba Dam; investigating groundwater stored below the surface in aquifer sources within the Greater Sydney area; contingency planning for the construction of a desalination plant to augment Sydney's water supplies in the current drought and future droughts; and the use of recycled water in the many applications that do not require drinking-quality water, such as garden watering, toilet flushing, car washing and industrial processes. These initiatives have the potential to provide more than 200 billion litres of water to Sydney's drinking water supply within 25 years.

To manage community water requirements a number of measures will be introduced, including the establishment of a \$120 million Water Saving Investment Fund to develop efficiency initiatives that deliver significant water savings; a requirement that businesses, councils and government agencies must implement water conservation plans from March 2006, and must implement cost-effective water efficiency measures by September 2007; \$328 million expenditure over the next four years to reduce leaks in water pipes; a "Smart Water Mark" labelling scheme for water-saving products such as trigger hoses, tap timers, weep hoses, and mulch and rainfall sensors to reduce outdoor water consumption; a requirement that all houses sold after 1 July 2007 must meet a minimum level of water efficiency—to assist householders in this regard Sydney Water's retrofit program will be extended indefinitely; and a mandatory labelling and water efficiency scheme for water appliances, which is the subject of this bill.

The Government is committed to providing a reliable, affordable and sustainable supply of water. The Water Efficiency Labelling and Standards (New South Wales) Bill is an important component of the Government's plan to secure Sydney's water requirements for the longer term in the face of climate change and population growth. The bill delivers substantial benefits to the people of New South Wales and I commend it to the House.

The Hon. DON HARWIN [6.42 p.m.]: I lead for the Opposition on the Water Efficiency Labelling and Standards (New South Wales) Bill, the object of which is to give effect in this State to a nationally consistent water efficiency labelling and standards scheme by applying the Commonwealth Water Efficiency Labelling and Standards Act to New South Wales. The Water Efficiency Labelling and Standards [WELS] Scheme is a national initiative of the Federal Coalition Government drawn up in consultation with the States and Territories. The scheme was established following a meeting last October convened by the Federal Government with State Governments and the Government of New Zealand. It is testament to the Federal Coalition Government's commitment to the effective and sustainable management of our nation's water resources, a commitment that contrasts sharply with the lack of planning and lack of investment by the Carr Government in New South Wales.

Similar to the National Appliance and Equipment Energy Efficiency Program, the WELS scheme establishes minimum water efficiency standards for water-using products such as washing machines, dishwashers, toilets and showerhead nozzles. The introduction of mandatory labelling on such items and the provision of performance information will raise consumer awareness about more efficient water-use appliances. The aim of the scheme is that improved public awareness will translate into an increased adoption rate of more effective products by consumers and, consequently, a reduction in per household water consumption rates. By promoting water efficiency at the point of sale the WELS scheme also supports a further development of the new and effective water-use technologies by industry. Overall, the WELS scheme has the potential to save millions of litres of water, and it is entirely appropriate that it should operate across Australia with national minimum standards applied consistently. The Federal Government is to be commended for taking the initiative on this project and for bringing forward the appropriate legislation without any unnecessary delay.

The Opposition is pleased that the Carr Government has introduced this legislation, which will bring New South Wales into the scope of the Federal Coalition Government's WELS scheme. Our only hesitation stems not from an aspect of the scheme itself but from the State Government's inclusion of a so-called Henry VIII clause. Clause 6 of the bill enables the Commonwealth water efficiency laws to be modified by regulation in their application to New South Wales. This open-ended aspect of the bill could allow the Government to amend the operation of the legislation without any appropriate safeguards. The Government should make clear that such a capacity would be utilised only in unforeseen circumstances, which is the purpose of such clauses. The Legislation Review Committee considered this provision, and we were satisfied that the safeguards probably did exist, but Henry VIII clauses are a personal bugbear. I hope it will be used appropriately. This personal reservation aside, I acknowledge the value of the bill and am very pleased to support it on behalf of the Opposition.

However, it is extremely disappointing that the Carr Government's response to our State water supply needs remain focused on water restrictions and the promotion of more water-efficient products. This approach

has attempted to make consumers, rather than the Government, responsible for solving our State's water supply problems. In his second reading speech on the bill the Minister in the other place referred to the Government's recently announced Metropolitan Water Plan. He described the plan as comprehensive, yet the Carr Government continues to disregard the opportunities for large-scale water recycling in New South Wales. With such a critical and potentially beneficial aspect of the State's future water infrastructure almost entirely ignored by the Government, it is unbelievable that the Minister can describe his plan as "comprehensive". As with the WELS scheme, large-scale water recycling remains the strategy championed by the Coalition only. This topic was raised repeatedly in the past year by the shadow Minister in another place, the honourable member for Wakehurst, and recently it has received strong support from our Federal member for Wentworth, Malcolm Turnbull. Clearly, these Liberal members have the vision and the foresight that is lacking in the tired old Carr Government.

In the middle of last year Sydney Water dumped its biggest water recycling initiative, a \$110 million pipeline carrying water for industry through to Sydney's south-west. The pipeline, carefully devised over four years of planning, was promoted as a key part of Sydney Water's Water Plan 21, its blueprint on how to make Sydney's water use sustainable by 2021. The decision to abandon the project again demonstrated the Carr Government's failure to adequately invest in our State's infrastructure. As Malcolm Turnbull commented recently, "For whatever reason the New South Wales Government will not take large-scale recycling seriously." Water recycling schemes have the potential to deliver a significant saving to New South Wales. An excellent example of the kind of infrastructure development the Government could implement in the Sydney area is located in the Shoalhaven, where a planned water management scheme irrigates 370 hectares of the lower Shoalhaven River flood plan. Upon completion of the project, 80 per cent of reclaimed water will be used beneficially in the drought-proof irrigation of 70 hectares of land used for dairy farming and recreation.

The WELS scheme is designed to encourage individual consumers to use more water more efficiently, yet while the Federal Government has put together the WELS scheme, the tired old Carr Government has failed to take the lead on the more efficient use and reuse of water in New South Wales. In recent days Malcolm Turnbull has shown more leadership on this issue than either the Premier or his Minister has shown in recent months. He identifies correctly that recycling sewage is a cheaper and more environmentally responsible water management strategy than desalination, an option being explored by the Carr Government. Currently, some 450 billion litres, or 75 per cent of Sydney's annual water usage, is flushed out to sea.

Under the Government's Metropolitan Water Plan, just 3 per cent of sewage water will be recycled. The remaining 97 per cent will simply be wasted. Services Sydney, a private consortium, wants to reuse sewage water, but the Carr Government has taken no steps to achieve sustainable sewage reuse on a meaningful level and remains dismissive of the entire concept. Yet Services Sydney believes it can make this approach feasible.

Rather than embracing this private sector investment in our State's infrastructure and trying to work with Services Sydney to overcome problems, the Government has been obstructionist, blocking the group's access to Sydney Water's sewerage pipes. Rather than moving to protect the commercial monopoly of Sydney Water and the high yield dividends it provides, the Carr Government should be embracing the introduction of efficient water recycling technology.

A major object of this bill is to promote awareness about new products and technologies to use water more efficiently in homes and businesses. Yet at the same time that the State Government is embracing the Federal Government's initiative to support more water-efficient technologies in homes and businesses, it is failing to advance the use of large-scale water efficiency strategies in our State, despite the fact that water recycling is a more environmentally sound course of action than either seawater desalination or the unbelievably abominable harvesting of water from the Shoalhaven River, with the deleterious impact that is already having on the health of the river. The condition of the Shoalhaven River will be far worse after the Government's pipeline is completed.

Mr Ian Cohen: It will be worth voting the Government out on that one.

The Hon. DON HARWIN: I acknowledge the interjection of my colleague Mr Ian Cohen and note that recently he attended a meeting in the Shoalhaven on this issue with my colleague the honourable member for South Coast, Shelley Hancock, whom I am sure he concedes has been showing good leadership on this issue. My friend Councillor Gareth Ward of the Shoalhaven City Council also attended the meeting. Unlike some of the myopic Shoalhaven councillors, particularly the mayor, Councillor Ward is also showing great leadership on this issue.

The conservation of our State's water supply through the utilisation of more water-efficient products is an important response to the water crisis facing our State. This bill is a valuable part of the State's water management, but much more is needed. The Opposition is pleased to support the bill but it will continue to press the Carr Government about the future of our State's water supply and water management infrastructure.

Mr IAN COHEN [6.52 p.m.]: I think it is agreed by all parties that water is a vital and undervalued resource. Of course, it is the source of all life. Therefore it is quite clear that it needs to be preserved and that its quality should be maintained. The Greens strive to ensure that water is managed in an ecological sustainable and socially just manner. Water efficiency and demand management are part of that, so on behalf of the Greens I welcome the Water Efficiency Labelling and Standards (New South Wales) Bill as a step in the right direction in the sustainable use of water.

The bill gives effect to a nationally consistent water-efficiency labelling scheme. It requires manufacturers to label appliances, including shower heads, washing machines, dishwashers, toilets and taps, with relevant water-efficiency information. It also applies a minimum standard to toilets. The bill provides penalties for non-compliance. These are positive measures that should be supported, and they are supported by the Greens.

The Hon. Rick Colless: You should have Frank's pipes plugged, too.

Mr IAN COHEN: I acknowledge the interjection by the Hon. Rick Colless, and I will come to the topic of plugging Frank's pipes in a moment. Hopefully the labelling of appliances will encourage consumers to buy more efficient products. However, the efficient use of water involves much more than putting stars on toilets: We now have stars on toilets after the style of stars as ratings on electrical appliances, and these are all good steps in the right direction. It is important to give the consumer and people generally the opportunity to participate in water-conservation measures. It is important for the Government in particular to recognise something that I am absolutely convinced of—the immense goodwill in the community towards water-saving measures.

I contrast that with the profligate use of water in Parliament House. Approximately 12 months ago I asked the Minister for Energy and Utilities, Frank Sartor, to do one small thing, and that was to investigate waterless urinals and find out how many urinals in this Parliament are needlessly flushing potable water down the drain.

The Hon. Charlie Lynn: That is the last place you want a leakage.

Mr IAN COHEN: I acknowledge the wit of the Opposition's Minister for pipes and all things flowing, the Hon. Charlie Lynn. An audit is a small measure that could be part of a wider audit undertaken to include this Parliament and many commercial buildings, particularly government-owned buildings, in an effort to cut down on the misuse and waste of water. Urinal water does not do anything functional except perpetuate old fashioned systems and flow into the sewerage system. It is a typical example of a waste of potable water, and it happens not only in Parliament but also in the general community. Systems are responsible for the huge waste of water.

In some areas of my home town, Byron Bay, the local council has installed waterless urinals—and they work. The top pub in the area, which is run by none other than John Cornell and his wife, Delvene, has waterless urinals—and they work. This is one of the small but effective measures that is being ignored by governments. It is almost as though our water resources are suffering death by a thousand cuts from misuse. It must be remembered that 30 per cent of household consumption of potable water in New South Wales is being flushed down the toilet despite the fact that our society is suffering major problems caused by drought and water catchment mismanagement. Later I will discuss in more detail the abominable situation in the Shoalhaven referred to by the Hon. Don Harwin, who preceded me in this debate. In the Shoalhaven, environmental flows are being devastated by water being diverted to an end-of-pipe solution that is being implemented by this Government.

The Hon. Don Harwin: It is destroying the oyster industry.

Mr IAN COHEN: As the Hon. Don Harwin says, it is destroying the oyster industry and it is grossly affecting the environment of the Shoalhaven River. Moreover, it is impacting adversely on a small community that is being burdened with the environmental and fiscal cost of supplying water for an end-of-pipe solution devised by Sydney Water. I have been fighting Sydney Water for more than 20 years. I acknowledge that aside from the forestry quotient issue in environmental debates, I see eye to eye with the Opposition on environmental issues.

The Hon. Rick Colless: You will appreciate our commonsense approach to the forestry quotients one day, too.

Mr IAN COHEN: That is a matter of opinion. In my way, I am trying to be open and reasonable toward the Coalition because its record on water management is far better than this Government's.

The Hon. Charlie Lynn: We walk on it!

Mr IAN COHEN: In that case, I look forward to what the Hon. Charlie Lynn will have to say during the motion of condolence for the Pope. While this legislation has some merit, it is a mere drop in the bucket compared with what is needed to patch up a faulty system that operates throughout the Sydney Basin. The bureaucracy known as Sydney Water is at fault because it not only operates a system that has innumerable leaks that should be plugged but in an engineering and scientific sense is horribly outdated. It still has engineers who are proposing massive pipeline solutions to address problems associated with water management. Water is still being moved from one catchment to another while effluent, which is 95 per cent water, is being pumped into the ocean and is causing massive pollution problems in the aquatic environment.

Combined with issues related to salinity and desalination plants, water management by this Government is really messy and is environmentally devastating as well as extremely expensive. Engineering fixes by Labor governments began in the 1980s when the then planning Minister in the Wran Government, Bob Carr, implemented plans for a three-kilometre outfall sewage disposal system in Sydney. I opposed that in the mid to late eighties, and I oppose it now.

It was a short-sighted engineering fix that is devastating the off-shore environment, and spreading pollution even further, although a few beaches have been cleaned up. That was an absolutely single-minded engineering solution in those days as opposed to what could have been achieved through a creative water recycling system, as promoted by a Sydney firm that I will advise the House about later. The Wran Government implemented that solution and ignored all the pleas of environmentalists, and today our society is suffering the consequences. This continent is the driest on Earth and it is suffering from the effects of drought. As a consequence of the drought and Sydney's population growth, our water resources are rapidly depleting.

Debate adjourned on motion by Mr Ian Cohen.

RESTRICTED RAIL LINES

Production of Documents: Further Return to Order

The Clerk tabled, pursuant to the resolution of 23 March 2005, further documents relating to the audit of restricted rail lines, received on 6 April 2005 from the Director-General of the Premier's Department, together with an indexed list of the documents.

Claim of Privilege

The Clerk tabled a return identifying those 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.

CALLAN PARK DEVELOPMENT

Production of Documents: Further Return to Order

The Clerk tabled, pursuant to the resolution of 23 March 2005, further documents relating to the development of lands at Callan Park, received on 6 April 2005 from the Director-General of the Premier's Department, together with an indexed list of the documents.

Claim of Privilege

The Clerk tabled a return identifying those documents received on 6 April 2005 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.

[The Deputy-President (The Hon. Christine Robertson) left the chair at 7.04 p.m. The House resumed at 8.00 p.m.]

DEATH OF AUSTRALIAN DEFENCE FORCE PERSONNEL

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 [8.01 p.m.]: I move:

That this House expresses its profound sorrow and sympathy to the relatives of Royal Australian Navy and Royal Australian Air Force personnel who tragically lost their lives in the Sea King helicopter accident while undertaking humanitarian relief work in Indonesia on 2 April 2005.

Only a short time ago members in this Chamber paid tribute to the effort mounted by Australia to assist countries affected by the horrific tsunami disaster on Boxing Day 2004. We acknowledged the compassion and generosity of the Australian community. We also acknowledged the efficient role played by Australia's national and State emergency service bodies and the Australian Defence Force. It is now with great sadness that we pay a mark of respect to the men and women who lost their lives doing just that. On Sunday afternoon the crash of a Royal Australian Navy Sea King helicopter from HMAS *Kanimbla* on the Indonesian island of Nias took the lives of nine Australian Defence Force personnel and injured two others.

The helicopter was based at HMAS *Albatross*, the naval station near Nowra on the South Coast. The Navy personnel who were killed were Lieutenant Mathew Davey, Lieutenant Matthew Goodall, Lieutenant Paul Kimlin and Lieutenant Jonathan King, Petty Officer Stephen Slattery, and Leading Seaman Scott Bennet. The Air Force personnel were Squadron Leader Paul McCarthy and Flight Lieutenant Lyn Rowbottom. The Army lost Sergeant Wendy Jones. Lieutenant Goodall, Petty Officer Slattery and Leading Seaman Bennet were from New South Wales, and Lieutenant Kimlin and Lieutenant King were currently serving at Nowra. The loss of nine young lives is a tragedy at any time, but in these circumstances it is even more so. In a wartime combat situation there is always the fear of casualties, but peacetime fatalities, even in the defence forces, come as a great shock.

One morning recently I was listening to one of the city's prominent commentators, Sally Loane, who noted that the men and women who died in this tragedy were a group of extremely impressive Australians, as demonstrated by the things they had achieved, the selection processes they had gone through, the service they were giving to their country, and their courage. She said they were people we would be proud to have as sons and daughters. I am about the same age as Sally Loane. Initially I was puzzled by her comments, and it was somewhat sobering to realise that these defence force personnel were young enough to be my children. I consider myself to be relatively young, with plenty of life to live and things to experience and achieve.

Not only are we saddened at the loss of life but we are saddened at the heartbreak, the shattered dreams, the never-to-be-fulfilled aspirations of those outstanding young Australians, and the pain that must have been inflicted on the families of those whose lives have been taken, not to mention the pain of their mates and comrades.

We can all appreciate the impact of this event on the tightly knit service community in Nowra. I understand that news of the tragedy broke during Saturday night's naval ball at HMAS *Albatross*. It reminds us all that the work of people sworn to protect our community and our country is always fraught with danger and risk. That applies to our police and emergency services as well as to our defence force personnel. However, Saturday's air disaster was even more poignant. The personnel involved were on a mercy mission to a remote area devastated by yet another natural calamity. We do not expect such missions to end in death and injury. Worse still, HMAS *Kanimbla* should not have even been there. On its way back to Australia after a tour of duty in the tsunami-affected areas, it was diverted to assist with the new disaster on Nias. All those killed should really have been back here in Australia.

It reminds us in the most stark and tragic way of risks taken by military personnel. Like the tragic Army Blackhawk helicopter crash at Townsville in 1996, or the HMAS *Voyager*-HMAS *Melbourne* collision in 1994, it brings home to us the pressures and risks under which defence force personnel operate even in peacetime. The disaster also reminds us that we are very much part of the Asian region. These men and women were serving their country, performing humanitarian work for our nearest and now closest neighbour. We should remember that they are not the first Australian service personnel to give their lives in the Indonesian archipelago, an area vital to Australia's interests and security both in peace and in war. In World War II many young Australians, just like the victims of the Sea King crash, laid down their lives in the seas, the skies, and the jungles of the various colonial territories now known as Indonesia.

Sadly, Saturday's victims were engaged not in a combat role but in a humanitarian one. This tragedy will cause an understanding community to reflect on the commitment and demands made on service men and

women—long periods away from home, the pressure of work and, as Saturday illustrated, the elements of danger. Fortunately, Australians today, perhaps never as before, will recall and honour these sacrifices inflicted on us by events such as this tragic accident. This will be manifested in three weeks when we commemorate Anzac Day. It serves to remind us of the often unpayable debt we owe to the families of those who volunteer to look after our nation's security. I extend the Government's profound condolences to the grieving families, friends, comrades in arms and colleagues of all involved in Saturday's great tragedy.

The Hon. MICHAEL GALLACHER [8.07 p.m.]: Tonight we honour the nine Australian service men and women who lost their lives when their Sea King helicopter crashed on the Indonesian island of Nias during a mercy mission to the quake-stricken area. The men and women who were claimed on the remote island off the coast of Sumatra were Lieutenant Mathew Davey, Lieutenant Matthew Goodall, Lieutenant Paul Kimlin, Lieutenant Jonathan King, Petty Officer Stephen Slattery, Leading Seaman Scott Bennet, Squadron Leader Paul McCarthy, Flight Lieutenant Lyn Rowbottom and Sergeant Wendy Jones. Local villagers dragged Able Seaman Shane Warburton and Leading Aircraftman Scott Nicholls from the burning wreckage. We wish them a speedy recovery.

Every day ordinary Australians put their lives on the line protecting individuals in our nation and abroad. Service men and women confront the challenges they are well trained for on a daily basis. However, we are tragically reminded by terrible incidents such as this how, in an instant, the jobs they perform can become so extremely dangerous. The footage of brave seven-year-old Jarryd Bennet, son of Leading Seaman Scott Bennet, receiving the Indonesian bronze medal of valour from the Indonesian President yesterday will remain with Australians forever. As the ode reminds us, we will never forget. Our thoughts and our prayers go to the families and friends of these fine men and women.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.09 p.m.]: On behalf of The Nationals of New South Wales I offer our condolences to the families and friends of the nine service men and women who were tragically killed when the Sea King helicopter in which they were travelling inexplicably crashed while on a return humanitarian mission to Indonesia. The personnel had been on their way home, thinking they were safe, having done a terrific job, when they had to turn around and do the job again, and this tragedy occurred. It has certainly touched the hearts of many.

Like many people, on Saturday evening I was enjoying a sporting event. I was at a function with the former Leader of the Government, the Hon. Michael Egan, the Chief of the Australian Defence Force, General Peter Cosgrove, and former member Rodney Cavalier. We had dinner and began to watch the sporting event. At half time I noticed that General Cosgrove was no longer present but it was not until the next morning that I realised why he left. Our deepest sympathy and our thoughts and prayers are with the families of the nine Australians—nine of Australia's most skilled defence personnel—during this very sad and difficult time.

It is truly heartbreaking that such an accident occurred. Those men and women of the Australian Defence Force—Paul Kimlin, Scott Bennet, Jonathan King, Matthew Goodall, Mathew Davey, Paul McCarthy, Lynne Rowbottom, Wendy Jones and Stephen Slattery—made an extraordinary commitment and the ultimate sacrifice for their country and the people of our region. I know that the people of Australia and Indonesia will always be grateful for the selflessness of those seven men and two women who were so tragically lost during this humanitarian mission. As my colleague the Leader of the Opposition pointed out, it is indicative of the esteem in which they were held that the Indonesians recognised their sacrifice by awarding them that country's second highest medal for valour.

I offer my personal condolences and those of The Nationals to the families and friends of the victims of this tragic accident. I also take this opportunity to commend all Australian Defence Force personnel for their tireless work and dedication during the tsunami crisis and other recent military campaigns.

The Hon. DON HARWIN [8.12 p.m.]: The deaths of nine Australian service personnel in a Sea King helicopter accident over the Indonesian island of Nias last Saturday are heartbreaking tragedies for their families and a cause of great sorrow to us all. The four crewmen and five medics died providing emergency relief to the survivors of the recent earthquake. With no operating theatres on Nias, the Sea King helicopter crews were transporting medical teams to the island and evacuating the worst of the injured survivors to the nearby HMAS *Kanimbla* for treatment. As we extend the condolences of the House to the families and to the men and women of our nation's armed services, it is appropriate that we acknowledge that these dedicated Australians died performing a mission of compassion and aid. They died assisting our regional neighbours at a time of unimaginable hardship. While this makes their deaths tragic, it also makes their lives of service quite exceptional.

This tragedy will be keenly felt in the community in which I live. The four crewmen killed on Saturday—Lieutenant Matthew Goodall, Lieutenant Paul Kimlin, Lieutenant Jonathan King and Leading Seaman Scott Bennet—were from 817 Squadron based at HMAS *Albatross* in Nowra, although several of them came from other parts of Australia. The facility has strong connections to the local community, with many residents and surrounding businesses providing services to the base at Nowra Hill and its personnel. I listened to the comments of the Deputy Leader of the Opposition about the interruption on Saturday night. I am sure that the news was a great shock to many who heard it that night. Sadly, on Saturday night at HMAS *Albatross* the major social event of the year, the annual winter ball, was in full swing. One can imagine that it has served only to magnify the deep sense of loss that the news came through when the base family were celebrating together. The news of their colleagues' deaths has shaken everyone very badly.

The primary role of HMAS *Albatross* is to support the four naval air squadrons of the Fleet Air Arm, which are based there and provide aircraft and air support to our Navy's ships. The engineering workshops, logistics units and medical teams at HMAS *Albatross* perform important operational and training roles for the Australian Defence Force. The personnel at HMAS *Albatross* do an exceptional job and they pride themselves on their teamwork. The loss of four colleagues in this accident will be felt throughout the base as well as in the surrounding Shoalhaven community. The small village of Tomerong, about five kilometres from my home, is hurting particularly badly, having lost Scott Bennet, who leaves behind a wife and two young sons. I note that my Leader referred earlier in his remarks to one of the boys.

I extend my deepest sympathies to the families affected by this terrible tragedy. I also pay tribute to the Indonesian national who pulled two defence force personnel from the burning wreckage of the helicopter. I hope that his courage will be recognised appropriately by the Federal Government. We should not forget his heroism.

Reverend the Hon. FRED NILE [8.16 p.m.]: The Christian Democratic Party supports the condolence motion, which states:

That this House expresses its profound sorrow and sympathy to the relatives of the Royal Australian Navy and Royal Australian Air Force personnel who tragically lost their lives in the Sea King helicopter accident while undertaking humanitarian relief work in Indonesia on 2 April 2005.

It was a tragic loss of the lives of young men and women who were committed to serving our nation. Those who died were Leading Seaman Scott Bennet, Navy Lieutenant Mathew Davey, Navy Lieutenant Matthew Goodall, Royal Australian Air Force Sergeant Wendy Jones, Navy Lieutenant Paul Kimlin, Navy Lieutenant Jonathan King, Royal Australian Air Force Squadron Leader Paul McCarthy, Royal Australian Air Force Flight Lieutenant Lynne Rowbottom and Navy Petty Officer Stephen Slattery.

As other members have said, these men and women were based at HMAS *Albatross*, which is located not far from where I live at Gerroa on Seven Mile Beach, overlooking the ocean. Almost every day we see Sea King helicopters fly over Seven Mile Beach on training flights. The flights are such a regular feature that the people of Gerroa now take them for granted and even the children take no notice. As members know, the remains of the nine deceased Australians were borne home yesterday in a Royal Australian Air Force C-130 Hercules. I commend the Federal Government for paying tribute to our service men and women, who were met by the Prime Minister and the President of Indonesia. One hundred men and women formed a guard of honour and there was a service band, a lone piper and 54 pallbearers from the Australian Federation Guard. There were six for each of the seven men and two women who died when a Sea King helicopter crashed on a relief mission on the earthquake-hit island of Nias last Saturday night.

It is also a matter of great pleasure that the Indonesian President bestowed on each of the nine persons the highest award that his country could give. Perhaps the death of these nine service men and women has helped to bind the links between the nations of Australia and Indonesia even closer than they were. Both the President and his wife were in tears. Major General Jeffery, Governor-General of Australia, laid a sprig of wattle on each coffin, which is one of the customs of service funerals. I join in this tribute and thank God for the men and women who serve our nation and obey the call, as is expected of them, whether it leads them to do humanitarian work in Indonesia and other countries or peacekeeping efforts overseas in places such as Iraq. I am sure all honourable members are very proud of the men and women who serve our nation.

Mr IAN COHEN [8.21 p.m.]: On behalf of the Greens I offer our condolences following the terrible tragedy last Saturday that occurred with the disastrous downing of the Australian Navy Sea King helicopter and the deaths of nine service crew on board. I join with all other honourable members of this House and offer my condolences to the families, friends and children of those wonderful people, people who on their way home

turned around and, as I understand it from reports, enthusiastically embraced the humanitarian effort that they were called upon to undertake. That is so typical of Australian people, who are so open and generous of spirit, as became clear after the tsunami that devastated these same areas, and now following the recent earthquake. Australian armed forces again have been called to help. This tragedy is even sadder and more terrible because the crew members were undertaking humanitarian support at the time.

So often I hear in the peace movement the catchcry about turning swords into ploughshares. I saw for myself in the tsunami-hit areas in Sri Lanka the organisation and equipment and the ability of the armed forces to assist people in difficulties. The armed forces once again were offering support after this most recent tragedy. I offer my condolences to all the bereaved families and to those in the local community on the South Coast who knew these people personally. Nias is a surfing area off the coast of Sumatra. I have not been there but I have intended to go there for many years. The area has now been rocked by devastation on top of the impacts of the tsunami in that region.

I am glad that many members of the Australian community, and particularly the surfing community, have volunteered their services. SurfAid International, which was originally a group of doctors who were going to the Mentawai Islands because they enjoyed the surfing so much, undertook to give back what they could to those people. After the tsunami and the Nias earthquake, Australians have gone to affected areas and have been at the forefront in offering assistance. I am pleased to say that my community has made contributions, as I have, to SurfAid International. Hopefully that will help in some small way to continue the good works being done by Australians from all walks of life in supporting Indonesia.

One can only hope that these natural events and catastrophes, and the tragic deaths of nine service men and women from the Australian Navy, will serve to bring our people and nations together towards greater mutual support and peace so that the loss of life that has been suffered will not be altogether in vain. I congratulate the Governments of Australia and Indonesia on the positions they have taken in terms of their relationships.

I acknowledge the Indonesian person who, as I understand it, very bravely saved two of the servicemen and dragged them away from the burning helicopter. I hope that that person, his family and his community gain support because of his incredibly brave act in the midst of that catastrophic crash. I hope that this disaster sends a positive message to help bring the nations of Australia and Indonesia a little closer together in their efforts towards peace.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.26 p.m.]: On behalf of the Australian Democrats I express our condolence to the Australian personnel killed during their relief mission in Indonesia after the earthquake at Nias. It is very sad to realise the irony of losing nine young Australians on a humanitarian mission when Australia is involved in a war in which one Australian has been killed. The six naval people dead were: Lieutenant Mathew Davey, a doctor from Canberra; Lieutenant Matthew Goodall, a helicopter observer from New South Wales; Lieutenant Paul Kimlin, a pilot from Canberra; Lieutenant Jonathan King, a pilot from Queensland; Petty Officer Stephen Slattery, a medic from New South Wales; and Leading Seaman Scott Bennet, an air crewman from New South Wales. The Air Force personnel were: Squadron Leader Paul McCarthy, a senior medical officer from Western Australia; Flight Lieutenant Lynne Rowbottom of Queensland; and Sergeant Wendy Jones of Queensland.

They have courageously done their job looking after victims of the earthquake. We must salute their contribution and be grateful for it. It is very sad for Australia, particularly for their families, that this has happened. Hopefully, the only good that will come out of it is that it will mend the relationship with Indonesia which has been damaged by our somewhat belligerent foreign policy. Hopefully, Australia's contribution to the difficulties of Indonesia in terms of both the tsunami and the earthquake will build that relationship so that something positive does come out of these deaths.

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) [8.29 p.m.], in reply: I thank honourable members for their contributions. All members have sincerely expressed their condolences. In my remarks on behalf of the Government I did not formally note, as a number of honourable members have done, the courageous actions of Indonesian civilians who saved the lives of the two personnel who survived the crash. The point I would like to make, in reply, is that the Government underlines those sentiments and extends condolences to both the comrades and families of the personnel.

Motion agreed to.

DEATH OF HIS HOLINESS POPE JOHN PAUL II

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) [8.29 p.m.]: I move:

That this House expresses its profound regret at the death of His Holiness Pope John Paul II on 2 April 2005.

I must say I feel as if I knew Pope John Paul II well. I am sure he fairly looked me in the eye twice—at least, to me, it felt as if he looked me in the eye: I was one of tens of thousands of people, and he just one exceptional person. He was a joyous, passionate, generous man and yet, in other ways, severe and austere—a man of sorrows. He was a mystic and a pacifist, but also a practical man of affairs; a politician capable of relentless and pragmatic campaigning; and a resourceful media and communications strategist. He was undoubtedly one of the great figures of modern history, a man who left his mark indelibly on the twentieth century and the first portion of our new millennium. I refer, of course, to Karol Wojtyła, born in the town of Wadowice in Poland, Bishop of Cracow, known to history now as Pope John Paul II.

Pope John Paul was more than just the spiritual leader of the world's one billion Catholics. He was the third-longest serving Pope in history. He was the first non-Italian Pope in over 400 years. He was "God's politician". He was called this through his relationships with a series of world leaders and United Nations figures, from Bill Clinton to Mikhail Gorbachev, from Nelson Mandela to Fidel Castro, and a number of religious leaders from several Archbishops of Canterbury to the Dalai Lama, as well as leaders of every religion represented on this planet. He gave the papacy a political significance, a legitimacy and a social influence that it had not enjoyed since the Middle Ages. He became an outspoken and yet respected voice on many of the great issues of our time.

Pope John Paul II was a charismatic figure, famous for his energy, his friendly smile and his warm personality. Perhaps to understand Pope John Paul II it is important to understand the powerful and proud tradition of Christian piety and modesty so much a part of the Polish character. This, and the mantle of political and cultural oppression that the Polish people endured for centuries, give us a little better understanding of Pope John Paul.

Many people know Pope John Paul II as the Pope who brought down communism. Before him, two great Eastern European bishops had championed cultural and religious freedom: first against nazism, and then in the face of communism, Mindszenty of Hungary and Wyszyński of Poland. At the time of his election he was, of course, the more junior of Poland's two cardinals. The new Pope was being interviewed by a secular United States journalist, who asked, not surprisingly:

Isn't skiing an unusual hobby for a Pope?

With statistical precision, John Paul shot back that:

Forty per cent of Cardinals in Poland are Alpine skiers.

The surprisingly well-briefed journalist was bemused:

But, Your Holiness, there have only been two Cardinals in Poland.

John Paul II replied, with characteristic modesty:

Ah yes! But in Poland Wyszyński counts for sixty per cent!

The millions who flocked to his masses went away inspired, and by the end of his reign he had preached to more people than any other religious figure in history. Even in his declining years he maintained a punishing schedule, despite the ravages of Parkinson's disease, displaying bearing and dignity with his debilitating illness. He reached out not just to Catholics but to people of all faiths, creeds and beliefs. Pope John Paul II espoused a consistent philosophy: human beings are not simply an economic unit; human beings have a right to freedom, and, in the order of things in the world, the right not only to practise religion but to live a fulfilling life.

Pope John Paul II energised the papacy, travelling as an evangelist and champion of a variety of freedoms, not just religious freedom. He spoke out against the death penalty and the wars in Iraq and advocated

human rights and dignity. To do this, he mastered modern communications such as television, the Internet and the print media. As an individual, he had versatile qualities that one might not expect in a religious leader. He was an adept sportsman, a prolific writer, a poet, a linguist, a playwright, an actor, a philosopher, an economic critic and of course a political strategist.

Like no other pontiff, he took the papacy to the people, criss-crossing the globe by jet to visit the richest and the poorest of nations. The greatest pilgrim in Christian history, he visited 129 countries to preach. Pope John Paul II preached on the equator, inside the Arctic Circle, on mountain tops, on tropical islands, in famous cathedrals of the Renaissance era and in medieval times, as well as in the most primitive of churches in Africa and the Third World. He travelled the equivalent of the earth's circumference 28 times over.

But, in a metaphorical sense, his journeys were even greater, and by that I mean his role in bringing different faiths and peoples together—none more so than with the Jewish faith, for he sought a new relationship between Christians and Jews. "Our older brothers and sisters in the Lord" was how he regarded those of the Jewish faith. And he backed this up with many symbolic commitments to the Jewish people. He became the first Pope since St Peter to visit a synagogue. He visited Jerusalem's Yad Vashem Holocaust memorial, and prayed at Jerusalem's Western Wall for forgiveness for Christians' historical mistreatment of Jews. He became the first pontiff to visit Auschwitz concentration camp. He had the Vatican establish diplomatic relations with Israel.

But there is another major event with which Pope John Paul II will always be linked: the collapse of communism in Europe. He was a supporter, as was I even before he was elected Pope, of the Polish trade union Solidarity. Long before his election many of its activists had suffered imprisonment and other human rights abuses. He counted as friends a number of Solidarnosc activists. It is impossible to describe what an extraordinary event the election of a Polish Pope, especially one with strong links to Poland's intelligentsia and its labour movement, was at the time. He publicised his patronage of the Polish Solidarity leader Lech Walesa by way of television broadcasts across the Soviet bloc. His visit to Poland in 1979, and his open support of Solidarity, are often credited as the reason for the beginning of the end of communism in the Eastern bloc. John Paul perhaps put it more simply, saying, "The tree was rotten. I just gave it a good shake."

John Paul II became Pope on 16 October 1978, the feast of St Hedwig, who is the patron of reconciliation between neighbouring States. This was certainly to be an indicator of what would be his legacy and is summed up in the comments of diverse religious leaders and national politicians. Palestinian leader Mahmoud Abbas said of John Paul II that he was "a great religious figure" and a man who "devoted his life to defending the values of peace, freedom, justice and equality for all races and religions". Israel's Foreign Minister, Silvan Shalom, said:

Israel, the Jewish people and the entire world have lost a great champion of reconciliation and fraternity between faiths.

We were fortunate to have Pope John Paul II visit Australia twice during his Papacy, and on one of these three visits he beatified our own Mother Mary MacKillop. At a Melbourne school, a young pupil asked him how he got to be Pope. He replied that he had come to the job after trying various other occupations with little success. Perhaps this larrikin, self-deprecating side of Pope John Paul II was what appealed to many Australians. He certainly was popular in our country. But it is fair to say that many people of good will, including many Australian Catholics, found the late Pope's teachings on issues concerning gender, sexuality, contraception, even the use of human stem cells for scientific research, harsh and, to some, even inconsistent with compassion and human justice. Because of this, in some respects, he may be regarded as a conservative.

At a time of personal reflection, I like to focus on the spirit with which the Pope, as a Bishop, a priest and human being, adopted Solidarity. It was a statement of a very human set of basic values that cannot be typed either as conservative or radical, but certainly were consistent with some core Australian values that represent people from various faiths and indeed no specific faith at all. No doubt there are people of the twentieth century who will look back at Pope John Paul II and focus only on his role in the downfall of communism, and perhaps his role in those particular issues.

Pope John Paul II, with a certain irony in my view, infallibly admitted that the Christian faith and Christians had been wrong to commit brutalities against Muslims and Jews during the Crusades. On behalf of middle Europe he confessed to cowardice and failure when it came to the great moral test of the Shewa, and he even referred to the mistakes that Christian missionaries had made in regard to the rights and dignity of indigenous people. Pope John Paul II was not a man afraid to say sorry, although he loved the Church deeply and everything it stood for. He had the following message about leadership that Australians, and men and women in politics, regardless of party or faction, State or religion, should take very seriously:

I urge you to pursue all those values worthy of the human person, to encourage you to be open hearted, generous to the unfortunate and caring towards those who are pushed to the margins of life.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [8.40 p.m.]: Today we honour the life of Karol Jozef Wojtyla, Pope John Paul II, who died on 2 April 2005 at the age of 84. He was a powerful, influential force in world affairs and a moral compass in turbulent times. He was a voice for the voiceless and the vulnerable. His Holiness was a lover of humanity. He will be long remembered as a scholar, writer, poet, incredible linguist and statesman. Born in Poland in 1920, Karol Jozef Wojtyla was elected as the first non-Italian Pope in 450 years when he was elevated to the papacy in 1978 and became Pope John Paul II. He went on to become the third longest-serving pope in history and arguably the most influential man of our time. He was the most widely travelled pontiff visiting more than 120 countries during his 26-year papacy during which he presided over almost one billion Catholics.

When Vatican Council II began the deliberations in 1962 that would revolutionise the Church the Holy Father was one of its intellectual leaders. He took special interest in religious freedom. Indeed the Holy Father became the first pope to visit a synagogue and the first pope to visit the memorial to the victims of the Holocaust at Auschwitz. One of the Pope's major achievements was to bring the Catholic Church to an historic rapprochement with Jews after 2000 years of hostility when the Vatican formally recognised the State of Israel in 1993. In March 2000 he made a long-desired trip to the Holy Land, visiting Israel and the Palestinian Territories. He called for peace at every stop along the way.

In a momentous gesture he left a personal note in the cracks of Judaism's sacred Western Wall in Jerusalem asking for forgiveness for the past sins of Christians against Jews. By far his greatest legacy was his impact on world affairs, including the fall of communism in Eastern Europe and his continued cry for freedom and democracy around the world. He had strong views on the importance of protecting human life from conception to natural death, he opposed the death penalty and he defended the rights of workers and the poor. He was tireless in proclaiming the Church's commitment to peace, sustainable development and human solidarity. In 1981 he demonstrated to the world an incredible act of forgiveness when he met and forgave his attempted assassin, demonstrating a kindness and compassion rarely seen in our modern world.

Pope John Paul II took as the informal motto of his papacy the words of scripture, "Be not afraid!" Through these 26 years he taught us in word and by deed the meaning of this phrase: All who wholeheartedly open their lives to Christ and belong to Him have nothing to fear in this world or the next. For Australians one of the most important aspects of the Holy Father's papacy was the beatification of Mother Mary MacKillop. Mary MacKillop, the founder of the Sisters of St Joseph, was sanctified during the Pope's last visit to Australia in 1995. The Sisters of St Joseph were instrumental in the formation of Catholic education as we have come to know and experience it today.

In addition, the Sisters of St Joseph were instrumental in supporting the homeless and destitute, both young and old, and establishing refuges for those who wished to make a fresh start in life. The Kincumber site of the present St Joseph's Spirituality and Education Centre has a history that stretches back to the 1880s when it became a home for 22 homeless boys from Sydney. The parish to which I currently belong is named after Mary MacKillop. It has an extensive pastoral responsibility to the rapidly developing new suburbs of Woongarra, Wadalba, Warnervale and surrounding areas. Never wavering from what he believed was right, His Holiness was a man of incredible conviction, peace and love. His death is a great loss to the world. I was fortunate to attend his mass at Randwick Racecourse in 1986, and I was fortunate to attend the memorial service at St Mary's Cathedral last night. Pope John Paul II may have left us physically, but his legacy will continue for generations.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.45 p.m.]: On behalf of The Nationals in the Legislative Council I express sadness and offer condolences to the Holy See and followers of the Catholic faith following the passing of Pope John Paul II, aged 84, on Saturday 2 April 2005. Pope John Paul II occupied the chair of St Peter for more than 26 years, leading the Catholic Church longer than almost any other pope. As the Leader of the Government indicated, only two other popes served longer than he did. His papacy of 26 years constituted almost half my lifetime, and many of the priests he ordained recently have lived under no other pope. On any account he was an extraordinary man whose commitment to God, peace and goodwill to all people on earth will continue to be felt around the world for many years.

Pope John Paul II, known as Karol Jozef Wojtyla until his election to the papacy, was born in Poland in 1920. As other speakers have indicated, as a young man he endured the Nazi occupation and the Second World War. He was forced to work in a quarry and a chemical factory, simultaneously beginning clandestine courses at a Cracow seminary in 1942. In 1978 John Paul II became not only Poland's first pope but also the world's best-known and most-travelled pope. He reached out to every continent and across the faiths. He visited Australia twice as head of the Catholic Church, first in 1986 and then in 1995 to beatify Mary MacKillop. His time in

Poland was spent under two of the most draconian regimes the world has known—the Nazis and the Soviet occupation—and that time obviously influenced his approach to life. Pope John Paul II has been revered as the most politically influential pope in centuries, as evidenced by his contribution to the fall of communism in his homeland of Poland and other eastern European countries and his call for greater dialogue between different faiths in the wake of the September 11 attacks in the United States.

Pope John Paul II was the first pontiff to preach in a Protestant church, to visit a synagogue, and to set foot in a mosque. I note that the son of the head of the Church of England paid the Catholic Church the courtesy of changing his wedding day so that it did not clash with the pontiff's funeral—and I congratulate him for having done so. I wish I could also congratulate Dr Peter Jensen, but his words on the matter as reported in today's *Sydney Morning Herald* were less than gracious and are probably better not discussed. The Pope's dignity, humanity and courage have been an inspiration to everyone throughout the world. These characteristics were personified when the Pope met and forgave his would-be assassin, Turkish extremist Mehmet Ali Agca, in 1983, the International Year of Forgiveness. Once again I offer my condolences and those of The Nationals in New South Wales to the Holy See and the Catholic Church.

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands) [8.48 p.m.]: The death of the Holy Father, John Paul II, marks the end of a remarkable era in the history of the Church. As has been said, he was the third-longest serving pope after St Peter and Pope Pius IX in the nineteenth century. He reigned over the Church during a period of rapid social, economic and political change. Like St Peter, the first pope, John Paul II was the rock upon which the hopes and faith of many were nurtured and strengthened.

He was truly a great world leader. He did not shirk the responsibilities of his office. Unlike many of his predecessors, who were often tied physically and spiritually to the Vatican, John Paul II carried the Catholic message of hope, freedom and justice to the whole world. In doing so, he combined the weight of tradition with modern means. For me, one of the lasting images of the Pope is his getting on his knees to kiss the ground or, more particularly the tarmac, of the latest country he was visiting. It became his trademark when visiting other countries.

During Pope John Paul's 26 years in office, he travelled to a staggering 129 countries. In doing so, he became the very embodiment of Catholicism. I have been advised that he actually travelled for three years; he was actually away from the Vatican for three years travelling to the rest of the world. As a recent editorial in the *Boston Globe* commented, he was a colossus who "bestrode the world, with the message of Christian optimism tempered by traditional rigour". The world of 2005 is vastly different from the world of 1978, yet the Pope's message of hope, love and "be not afraid", is a timeless call to humanity. And it was not just empty rhetoric. Stretching back to his opposition to Nazi occupation in World War II, as mentioned by members who preceded me, the Pope was never afraid to speak out for truth and justice. His opposition to a godless communism in Eastern Europe was crucial to its ultimate demise. Equally strong was his opposition to the rampant materialism and growing godlessness of the West.

The Pope's consistency against all forms of oppression, whether it came from the Left or Right of the political spectrum, often showed up the hypocrisy and inconsistency of other world leaders. It is ironic that while many in the West applauded his opposition to the Soviet bloc, the very same people chose to ignore him on issues such as the war in Iraq. Yet in death he seems to have taken on even greater significance, and that will be reflected in what will be the most powerful gathering of world leaders at his funeral on Friday. As the Deputy Leader of the Opposition mentioned, I note with some irony that Prince Charles, who is the next in line to the English throne and to becoming head of the Anglican Church and, perversely enough, possibly next in line to being the head of our nation, has deferred his own wedding to attend the Pope's funeral.

The reign of Pope John Paul II will be remembered for his championing of the rights of the poor, his interfaith dialogue, as mentioned by previous speakers, and for his spreading of the Catholic message of love, hope and forgiveness to all four corners of the world, particularly to Catholic youth. His passing is a time of great sadness and the world is the poorer for his absence. Yet this is a time of great joy, with the world coming together to celebrate and reflect on his significant life. Last night, together with many members of this House and people from of all ages and all walks of life, I attended a requiem mass for Pope John Paul at St Mary's Cathedral. As the *Washington Post* commented, "He will be seen by most... as a remarkable witness... to a vision characterised by humaneness, honesty and integrity throughout his reign and life."

Reverend the Hon. Dr GORDON MOYES [8.53 p.m.]: It was with deep sorrow that we all awaited the death of Pope John Paul II, who was the leader of the Catholic Church for the past 26 years and a strong

defender of the sacredness of human life and dignity. As we witnessed his suffering, we realised that he who had defended the rights of the unborn, the frail and ill, the suffering and dying, was also showing by example how to die in faith and trust. Pope John Paul II stands out as a powerful witness to a holiness of life, a man close to God who, in accepting suffering, totally abandoned himself to God's will. His time as Pope has been marked with great compassion for the poor, the sick, victims of injustice, oppression or discrimination, or anything that diminishes human dignity. His teaching of social justice will long be remembered and studied.

On a personal note, in 1985 I led an Australian film crew throughout the Mediterranean area making a film on the life of the apostle Peter. At St Peter's in Rome, we filmed in the Vatican museum, the library, and the Sistine Chapel in the great basilica. We were able to film Pope John Paul II in an audience. It was most extraordinary to listen to him speak with people from so many different communities. John Paul II was a major figure in fostering dialogue between different faiths, in breaking down barriers between Christians and non-Christians, and in his willingness to apologise on behalf of the Catholic Church for the sins of individual Christians through the centuries, including the role played by Christians in the persecution of Jews. Fearlessly, he proclaimed Christ and the teaching of the Catholic Church. He reached out to the young and easily won their hearts. He was a great communicator and was revered by the young generation, who responded to his call to idealism and involvement with the underprivileged.

At the audience to which I referred I heard him give a brief sermon first in Latin, then in Italian, then in Greek, then in French, then in German, then in Polish, then in English, in Japanese, Korean and Chinese. He has been praised as a great linguist, and I counted 14 different languages in which he gave the same sermon. When those present heard their language being spoken by him, they applauded with great enthusiasm. It was a tour de force. Pope John Paul II will live in our memories as a champion of truth and freedom, a leading thinker of our times, a great moral leader who was steadfast in his love for God and his fellow human beings. I will never forget his courageous intervention in his beloved Poland to strengthen the voice of democracy against the overthrow of the communist dictatorship that resulted in the retreat of the Communist Party in Central Europe. This week evangelist Dr Billy Graham said:

Pope John Paul II was unquestionably the most influential voice for morality and peace in the world during the last 100 years. His extraordinary gifts, his strong Catholic faith, and his experience of human tyranny and suffering in his native Poland all shaped him, and yet he was respected by men and women from every conceivable background across the world. He was truly one of those rare individuals whose legacy will endure long after he has gone.

Dr Graham went on to say:

It was my privilege to meet with him at the Vatican on various occasions, and I will always remember his personal warmth to me and his deep interest in our ministry. In his own way, he saw himself as an evangelist, travelling far more than any other Pope to rally the faithful and call non-believers to commitment. He was convinced that the complex problems of our world are ultimately moral and spiritual in nature, and only Christ can set us free from the shackles of sin and greed and violence. His courage and perseverance in the face of advancing age and illness [from Parkinson's disease] were an inspiration to millions—including myself.

As so many Christians have learned from him how to live, may we learn from his example how to die with trust in Jesus Christ, who died and arose again for our salvation. We celebrate his faith and we mourn his passing. We express our condolences to all Roman Catholics in their loss of their Holy Father.

The Hon. DAVID CLARKE [8.57 p.m.]: By his passing, His Holiness Pope John Paul II has left a legacy of positive achievements and an influence for good that will flow long into the future. His achievements have not only impacted on the Catholic Church and its 1.2 billion adherents but among large sections of the non-Catholic population as well. It is testament to his goodness in thought and deed that tributes and expressions of love and gratitude continue to flow in from all over the world, from those of humble background to those who lead the great superpowers, from those representing the other great religious faith traditions, both Christian and non-Christian, as well as from those who have no religious convictions but still identify with values that he propounded.

One of his recognised achievements was to help to bring about the collapse of oppressive communist regimes in Eastern Europe. His eloquent articulation of the foundations of human dignity and the inalienable rights of the human person stood out in bold contrast to the empty and oppressive nature of atheistic materialism and totalitarianism. As the first Polish Pope, he served to unify and inspire the people of Poland, who, since 1939, had suffered in agony under two totalitarian regimes. Although those regimes had different origins, they were the same when it came to their common evil.

It is not accidental, I believe, that the first events in the chain that led to the collapse of communism in the satellite states of Eastern Europe and the Soviet Union unfolded in Poland. The fact that the whole perverse communist structure disintegrated with such little loss of life is in itself a miracle. Pope John Paul II will be

remembered for raising his prophetic voice in opposition to the advance of secularism and moral relativism. He upheld and explained in clear and unambiguous terms Catholic moral doctrine as a sure guide to authentic freedom and humane behaviour. This was especially true of his great encyclicals: "Veritatis Splendor" (On the Splendour of Truth) and "Evangelium Vitae" (The Gospel of Life). In those noble works he emerged as a champion of the culture of life and exposed the barbarity of all that is constitutive of the culture of death, including abortion and euthanasia.

Pope John Paul II defended the centrality of the family based on marriage between one man and one woman as the primary and most vital cell of society at a time when the traditional family was being battered and bashed from many sources. He consistently, energetically and unfailingly defended the rights of the poor and the workers against those who out of greed or the pursuit of power for its own sake would reduce human beings to the status of material resources in economic and political processes. This aspect of his teaching came to the fore in his encyclical on social questions, titled "Centesimus Annus". History will record that he was truly a father and a shepherd to his people. He travelled the world reaffirming his Catholic brethren and other Christians in their faith, proclaiming Christ as the beginning, centre and end of history.

His personal integrity and deep humanity drew youth to him in droves. They recognised the truth in what he had to say, as distinct from the deceit of false prophets who are given so much airplay in our time. To the young he held out a true path to happiness and fulfilment. He spoke of the need for faith, prayer and self-sacrifice. But youth could recognise the gift he was offering them and how it contrasted with the hedonism their culture often seeks to impose upon them.

From time to time commentators have endeavoured to place Pope John Paul II in conflict with, or at least out of alignment with, the spirit of the Second Vatican Council. The truth is that he was a true interpreter of both the spirit and letter of that Council. In fact it was very often the commentators who were in conflict with that Council. It was the commentators who tried to bend and twist its meaning to justify attempts to undermine and change direction of the Church and its eternal and unchanged doctrine, dogma and values. But in this they failed. Pope John Paul II was very clear that the Second Vatican Council was in total conformity and unanimity with the 2,000-year-old doctrines and message of the church. Those doctrines do not change.

In fact, his fidelity to Vatican II and to all that concerns Catholic doctrine culminated in one of his greatest gifts to the Church and to humanity: the Catechism of the Catholic Church. In providing the Church faithful with the Catechism he enabled every member of the Church to know exactly and definitively what the Church teaches on questions of faith and morality. In that regard, and in the context of the growing secularisation of Western culture, the Catechism of the Catholic Church proved to be something of a life raft. He was kind to all he met, but unbending on questions of Catholic doctrine. In this he followed in the footsteps of Christ: "The truth will set you free."

Pope John Paul II will be remembered as one who led the Catholic Church in difficult and changing times; a man of strength and compassion, spirituality and piety. History will record him as one of the greatest of the popes. He is now in the beatific presence of our Blessed Lord. Christ himself said: "Thou art Peter and upon this rock I will build my church and the gates of hell will not prevail against it."

Reverend the Hon. FRED NILE [9.03 p.m.]: I support the condolence motion moved by the Leader of the House, the Hon. John Della Bosca, which states:

That this House expresses its profound regret at the death of His Holiness John Paul II on 2 April 2005.

I have always admired Pope John Paul II for his courageous leadership, although, as honourable members know, I am a non-Catholic and have been active in the non-Catholic church all my life. I was privileged to share in last night's service at St Mary's Cathedral, which was packed to capacity with 5,000 worshipers who joined in the tribute to the memory of Pope John Paul II. Before he became Pope, I had heard of him as the leader of the Polish Catholic Church. I was very much involved in the worldwide anti-communist movement at the time, much of the leadership of which came from such people as Pope John Paul II and others in countries behind the Iron Curtain. In Poland he was ordained a priest, a bishop and then an archbishop. A network of Christians, both Catholic and non-Catholic, joined together with the captive nations, those behind the Iron Curtain. In the main their leadership was Christian, either Catholic or from other denominations.

Pope John Paul II was exceptional, serving his Lord as Pope for 26 years—a magnificent achievement. He was prepared to reach out to all people, to members of the Catholic Church as well as to Christian members of other churches. He reached out to members of other religions, particularly those of the Jewish faith. Through

his opposition to communism he was a major factor in the hands of God in bringing about the destruction of communism; literally, with God's help, he buried it, and the Iron Curtain was torn down and millions of captive people were set free. In the 1980s he gave his wholehearted support to the organisation of independent trade unions, Solidarity. I was so moved by his support of that organisation that when I came to Parliament in 1981 I published a newspaper entitled *Christian Solidarity*, as a tribute to the Solidarity movement in Poland. I supplied copies of that newspaper to Christians and churches throughout Australia.

Pope John Paul II went the second mile, by standing against the Nazis as well as the Communist Party. He also reached out to Jewish people who had suffered through the Holocaust, their persecution by Nazis. He visited Jerusalem and prayed at the wall in the Temple of Jerusalem, where he sought forgiveness from God for the lack of action in saving the lives of six million Jews. In 1985 I was privileged, as a non-Catholic, with my wife, Elaine, to be invited to attend a Papal Audience in St Peter's Square. I was surprised that my invitation was number one and Elaine's was number two. I will never forget that unusual day in St Peter's Square. As I stood waiting to be introduced to the Pope while he was engaged in other activities, he caught my eye and spontaneously walked over and shook my hand. I thanked him for his courageous moral and spiritual leadership on behalf of all Christians.

He continued with other activities and later I was formally introduced to him. Elaine and I spoke with the Pope a second time. Elaine, in her bold way, said, "I invite you to come to Australia" to which he replied, "Probably" or "Possibly". That was in May 1985. He was probably planning a visit to Australia because he came to Australia in 1986. I do not suggest that Elaine arranged his visit to Australia, but she may, in her forthright manner, have planted the thought in his mind. I was photographed speaking with the Pope, and have brought those photographs into the Chamber with me to show honourable members who may question whether I did in fact meet the Pope.

When I returned to Australia some of the extreme Protestant groups found out about my visit. Stories were published in some of the Protestant papers and the headline in one of the papers described me as a parrot for the Pope. The story in the newspaper stated, "Do not trust Fred Nile. We heard that he went to Rome, he kneeled before the Pope, kissed his ring, and sold his soul to the Catholic Church." On one side I am attacked by liberals in the Uniting Church, and on the other side I am attacked by conservative Protestants. I cannot win. I must be doing something right as I am in the centre. I am proud to have supported Pope John Paul II in my own way.

On one occasion Channel Nine organised a television program because the Pope had issued a statement about adultery, in which he was simply re quoting the Commandments. A Channel Nine spokesman rang me and said, "We are going to have a discussion about the Pope and we cannot get a Catholic spokesman to appear to defend his statements." I said, "That is who you should get." The Channel Nine spokesman said, "We cannot get one. Will you come on and defend the Pope?" So I had the honour of appearing on Channel Nine and standing up for the papal statement that had been issued—a statement with which I agreed.

I agreed with all the statements the Pope issued relating to moral issues. I obviously supported Pope John Paul II on his firm moral policies in opposition to the heretical compromising policies of the Uniting Church hierarchy, a word that I use advisedly. I think the Uniting Church now has a more dictatorial hierarchy than the Catholic Church. The Uniting Church has ignored its grass roots membership. Members of the Uniting Church have presented petitions with thousands of signatures opposing the policies of the church—policies such as abortion, the decriminalisation of marijuana, homosexual clergy and the Kings Cross heroin shooting gallery.

The church has also rejected many of the doctrines, the virgin birth, the physical resurrection of Jesus Christ and other doctrines. When the Catholic sisters were going to conduct the Kings Cross heroin shooting gallery there was a deafening silence from the Catholic leadership in Sydney. I wrote to Pope John Paul in the Vatican and gave him all the details. Only three days later a statement was issued that the Catholic sisters had been ordered not to take part in the heroin injecting room.

The Pope issued a statement in which he said, "If you assist a person to inject a harmful substance you are committing a sinful act." I thought he summed it up, as he often did, with great wisdom. He had the right view about the matter, even though it might not have been something with which the Labor Government was happy. I certainly agreed with the Pope, and I think some members of the Government should have followed his example. It has been recognised that Pope John Paul II addressed more people than any other human being. When we add up all the audiences in all the cities and countries he visited we find that nobody, not even Billy Graham, addressed so many people face to face, and that is a remarkable achievement.

Practising Christians would know that the Pope fulfilled the words of Jesus Christ, who said three times to Peter, "Feed my sheep." He almost embarrassed Peter by repeating his request three times. Pope John Paul II fulfilled those words more than any other human being. He conveyed the word of God to men and women and young people across the world. Some people in the media and others are saying, "We hope that Pope John Paul is replaced by a more liberal and progressive Pope." I hope that that does not occur. Pope John Paul II received a tremendous amount of support from people around the world, especially from young people. From my observation of dioceses around the world—in Europe, South America and Africa—the dioceses that have followed the example of Pope John Paul II are growing and strong, with overcrowded churches and seminaries full of students. However, the liberal and progressive Catholic or Protestant dioceses are dying and their churches are empty.

Jesus said, "If people come for bread and we give them a stone they will not come back." I believe that Pope John Paul II was a magnificent example to both Catholic and non-Catholic churches around the world. Even though he was very popular he never sought cheap popularity by watering down the Word of God. He could have been tempted to do so to try to be more acceptable to the modern mind. But Pope John Paul II never compromised his position, which is one of the reasons why I admired him. Recently he stood firm against the worldwide promotion of same-sex marriages, an unpopular thing to do in the eyes of the media. In a recent statement he rightly labelled it "A new ideological evil".

Pope John Paul II seemed to have an ability—which I believe was given to him by God—to crystallise God's will on many of these issues. He stood firm against legalised abortion and euthanasia, even though some countries with predominantly Catholic populations, such as Spain, were legalising it. He never sought to win the support of their governments by compromising them. He also called abortion "a new form of evil" and "a new extermination comparable to the holocaust". I thank Almighty God for the way in which he used Pope John Paul II to convey His plan and purposes for planet Earth when so many other church leaders were moral cowards.

The Hon. JOHN RYAN [9.16 p.m.]: I am what Catholics call a non-Catholic, but I would like to associate myself with this motion, particularly as it gives me a unique opportunity to speak about spiritual matters in a forum that is normally reserved for consideration of things that are secular. Whilst I freely acknowledge that I did not agree with all the Pope's religious teachings, I agreed with him on issues that were the most important to us both. We both believed that Jesus was God, and we both trusted Him for our personal salvation. As a Protestant convert there would have been a time when I would have focused entirely on our areas of difference, but in these times when we Christians and our message face such an onslaught from the forces of unbelief, disinterest and materialism, the things that unite us are proving to be so much more important than the things that divide us.

It is not that we no longer care about our distinctive doctrines. We still care about them and I still care about them, but we have all learned over time that there is a time and a place for us to focus on our differences and there is a time to celebrate the great truths that unite us. I think the great Christian author and thinker C. S. Lewis best explained the matter for me when he said that people were still nourished when they ate, regardless of whether they understood anything about the theory of how vitamins work. So, too, in my view do people who seek and who find and believe the essential truths of the gospel still have a relationship with the living God. That relationship, of course, is provided as a result of the sacrificial work of Christ; nevertheless, in some respects discussing how it works, its details are in part academic.

If one has a relationship with God, some of the details are not nearly so important. That is a truth that is becoming more apparent to Christians, particularly in the western world. By any standard, the passing of Pope John Paul II is a remarkable event in recent history. To be at the helm of an organisation as vast and as pervasive as the Catholic Church for a period in excess of a quarter of a century is a singular achievement in human terms. It is not in any way surprising that we are marking the passing of the Pope with a motion in Parliament. That is not just because he has been in office for so long; it is also beyond question that he was a contributor—and a key contributor—to one of the most significant political events of recent times: melting down the Iron Curtain in eastern Europe. Few of us would not believe the world is a better place for that event having taken place.

But for a moment I will use the passing of Pope John Paul II as an opportunity to reflect on what I refer to as the miracle of Christian leadership. I ask that we all reflect on what Christian leadership entails, regardless of whether one agrees or disagrees with the values of the late John Paul II. I believe he represents an impressive example of Christian leadership, which can be appreciated objectively by anyone, regardless of his or her creed. I believe that when people commit themselves to Christian leadership, as Pope John Paul II obviously did, they are participating in a miracle. In my view the miracle that, by the Holy Spirit, transforms ordinary men and

women into Christian leaders is no less remarkable than the miracles the Lord Jesus performed when, while he was alive, he made the lame walk and the blind see and turned water into wine.

In earthly terms, people who become leaders in the church give so much. This is true irrespective of whether they are full-time clergy, from the humblest deacon to the most influential bishop, archbishop or even the Pope. They spend hours doing things that most of us find a challenge, whether it is praying or reading the Bible. They spend hours doing things that most of us would find difficult, such as helping people and listening to their problems. In many instances they devote themselves to a simple life and they live unselfishly in the service of others. Pope John Paul II best expressed this attitude that is common to all who devote themselves to full-time Christian service in his personal motto, "Totus tuus", Latin for what I understand is best rendered in English as "totally yours". Many people who devote themselves to Christian service—including many I know—have that incredible attitude. I believe it is not a human attitude; it is a superhuman attitude that is explicable to me only by the distinct and positive action of the Holy Spirit in their lives.

In addition, Christian leaders submit themselves to the close scrutiny of a very cynical and increasingly judgmental world. When Pope John Paul II accepted the leadership of the Catholic Church he became a benchmark for an organisation that believes in some very high moral values: patience, truthfulness, honesty and love. When Pope John Paul II took on the charge of representing the Catholic Church, he automatically took on the task of representing all those values in his personal life. All Christians, including the Pope, accept the proposition that they all fall short. But, as we in elected office understand in small part only too well, when one takes on the mantle of leadership one comes under intense scrutiny. I can only imagine what it must have been like for Pope John Paul II—Karol Wojtyla—to have lived under such scrutiny for 27 years.

We know that Pope John Paul II travelled the world almost every year, making numerous trips. All of us know how travel can sometimes test our patience. We know that if at any time he had exhibited impatience or discomfort or was seen to exhibit any human frailty it would have instantly rocketed throughout the world media. Yet Pope John Paul II performed this task not for one year or five years but for the best part of 27 years. His job was to live a blameless life in public.

And he could not give it up: He took on this task for life; he knew he had no opportunity to retire. Even when age beset his body and he did not look impressive from a human perspective he nevertheless continued to live true to those virtues. I am sure that even those who are not Christians can understand that this must have been an incredible task for an ordinary human being. In my view, it is the closest thing to a miracle before our eyes that we are likely to see.

When Karol Wojtyla became Pope in his late fifties he took on a phenomenal task at a time of life when most of us are probably beginning to think it would be like to take it easy. Yet he assumed the task of representing and leading millions of Catholics. It was a remarkable human achievement to undertake to exercise such leadership for so long at that time in his life. Pope John Paul II was obviously passionate about his message. Much has been said in recent days about the most impressive thing about His Holiness.

The indelible image for me—and I think for us all—was when, to demonstrate the virtue of Christian forgiveness, he confronted the man who had attempted to kill him. That act alone was an enormous demonstration of the work of the Holy Spirit and the Pope's passion for communicating the essential and important message of Jesus Christ. That he suffered bodily wounds and was then prepared to confront the individual who inflicted those wounds demonstrates his passion and his belief in that message.

I also find it amazing that the Pope is not alone. Last night I attended the memorial service at St Mary's Cathedral, where I witnessed a procession of dozens of Catholic clergy. As they walked past me, I thought how each and every one of those priests, nuns and so on demonstrate the same level of Christian commitment. They give up so much in order to serve their Church, and potentially to serve us all. I think and pray regularly about the clergyman who serves me at St John's at Camden and I often thank God that he is prepared to do something that I know, when I search my heart, I am not prepared to do. I find that remarkable. I am dumbfounded that so many men and women offer themselves to serve God and to communicate the gospel. One would hardly argue that they do it for the glory; it is not very glamorous work and in many cases they deny themselves enormously in giving that service.

Of course the Pope, like so many other Christians, lived that sort of life and gave that sort of service not only because he was energised and transformed by the Holy Spirit but because he actually believed the message that this life is not the end of human experience. He believed in the resurrection. When I attend funerals I think

of words that I am sure offer people comfort. They are the words of Jesus Christ in John 14, when he said to his disciples:

Do not let your hearts be troubled. Trust in God; trust also in me. In my Father's house are many rooms; if it were not so, I would have told you. I am going there to prepare a place for you. And if I go and prepare a place for you, I will come back and take you to be with me that you also may be where I am. You know the way to the place where I am going.

The Pope, like so many other Christians, trusted in the message of Jesus Christ and understood what it meant. I think also of the comment by the famous Christian evangelist D.L. Moody. Long before he died he said, "You may read one day in the newspaper that I have died. Don't believe a word of it." He was saying that he did not believe death was the end: He believed to be absent from the body is to be present with the Lord. Similarly, when the Pope passed away I noticed that the words used to announce his passing were that he had left us to be with the Lord. The Pope must have believed those things genuinely and sincerely. I reflected on that point when I read a passage in 1 Corinthians 9, where the Apostle Paul was talking about the rights of an apostle. I know that many people regard the Pope as being equivalent to an apostle. Paul said:

Though I am free and belong to no man, I make myself a slave to everyone, to win as many as possible.

Interestingly, I think the Pope demonstrated these virtues in many of his actions. Paul said:

To the Jews I became like a Jew, to win the Jews. To those under the law I became like one under the law (though I myself am not under the law), so as to win those under the law. To those not having the law I became like one not having the law (though I am not free from God's law but am under Christ's law), so as to win those not having the law. To the weak I became weak, to win the weak.

That was true of the Pope: even though he was weak, he continued his ministry to demonstrate that everyone, regardless of their human frailty, can access the Gospel of God. Paul continued:

I have become all things to all men so that by all possible means I might save some. I do all this for the sake of the gospel, that I may share in its blessings.

I have little doubt that that was the Pope's objective in the almost 27 years he served. As I said, one's views about his teachings are immaterial, and some of his teachings were certainly controversial. I agree with many of the family values he espoused but, as a Protestant, I possibly do not agree with some of his religious teachings. Nevertheless I believe that the Pope was a wonderful example of Christian leadership, and we are grateful for it. Together with Catholics, I have no problem in giving thanks to God that this man demonstrated that sort of Christian charity for so long. I am sure that, as the *Bible* says, to be absent with the body is to be present with the Lord. As confident as I am able to be confident of anything, I am sure he is experiencing paradise at this time, and looking forward to the resurrection of the body in the future.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.30 p.m.]: There is no doubt that Cardinal Karol Wojtyla of Poland, the first non-Italian Pope since 1523, was an extremely dominating figure in the world. It behoves us when speaking to this motion to speak of him as a world figure with his strengths and his failures rather than merely to recite hagiography. He was a poet, a playwright, an author of many books and hundreds of articles, a philosopher, a formidable debater, an actor, an athlete with a passion for skiing, swimming and mountain climbing, a professor of social ethics, and a linguist fluent in seven languages and skilled in a dozen. At the time of his election as the 264th bishop of Rome, the Pope was almost unknown outside the church hierarchy and his native Poland where he had been a priest since 1946, the Archbishop of Crakow since 1964 and a cardinal since 1967.

On a number of issues, such as human rights, capital punishment and the war in Iraq, the Pope was an outstanding human rights advocate. On the issue of freedom of the European countries from communism he was an amazingly powerful figure. The position of the Church in Eastern Europe could not be underestimated as the most significant bastion of anti-communism. In England I worked with a Rumanian who, although he was an atheist, always went to church because he wanted to emphasise his anti-communism. He was rewarded, having topped his medical school, by getting the worst of the 40 jobs in the pathology department at Bucharest. But the church had been extremely important. In old-fashioned countries where time had almost stood still with communism, the Church was, in a sense, almost more old-fashioned in that it dated pre-communism and kept those values alive.

In relation to other social issues such as AIDS, the use of condoms, homosexuality, paedophilia, the ordination of women priests and other liberal aspects of the Church—and perhaps the heroin injecting room—the Pope was very much of the old school. As he is an historic figure, we ought to look at the things he did in

some of those areas and the legacy he will leave. Certainly it has been said that the denial of human rights, with a continuing ban on contraception, damages the lives of millions of people, ensures that unwanted children are conceived, and is liable to put families under immense economic strain. It places an inestimable burden of guilt on Catholics, whose only alternative is to use contraception but fear they will suffer for all eternity as a result.

Indeed, I think the advocacy of chastity sometimes creates extreme difficulties for women who do not have a long-term partner. I think that is a problem in our society that often results in women not marrying because they have insisted on their chastity when others do not. That has condemned a good deal of people to a life of loneliness. Women who cannot control their own fertility have many babies, and every unwanted child they have reduces their ability to engage in employment on an equal basis. In societies where contraception is discouraged, many unwanted pregnancies inevitably end up being aborted in illegal back-street environments that endangers the mother's life.

Another very important issue for the Church is discouraging the use of condoms as a means of protecting people against HIV and AIDS. Uganda, perhaps alone of the African countries, was particularly successful in fighting the spread of AIDS. On 30 March a newspaper article stated:

President Yoweri Museveni is jeopardising Uganda's giant strides against HIV/AIDS by backing U.S.-funded "abstinence-only programmes, a New York based human rights group ...

Museveni has been widely praised for reducing infection rates to around six percent today from 30 percent in the early 1990s ...

The reversal of that bad trend was attributed to his Government's frankness about the role of condoms in tackling diseases. Jonathan Cohen, a researcher on the disease for Human Rights Watch, said that the abstinence-only programs left Uganda's children at risk of AIDS. Abstinence messages should complement other HIV prevention programs, not undermine them. The article continued:

Uganda's war against HIV/AIDS is a rare success story compared with other African countries, notably South Africa, where more than 5 million [people] are infected ... more than 10 percent of the global pandemic.

It might be noted that the Pope's influence on President George W. Bush was such that Bush doubled the funding for American abstinence-only programs during the past five years. The American Government budgeted \$US8 million for abstinence-only programs. It was worried that Catholic Church leaders had warned that condoms were not an answer in the war against HIV-AIDS in Kenya, where 700 people a day die from the disease. Certainly accusations were made. For example, an article on 7 October 1999 by George Monbiot in the *Guardian* said that the evidence stacking up against the Pope was bad. It said:

There are 122 million Catholics in Africa. Whenever the Pope visits them he explains that the only acceptable form of family planning is strict sexual abstinence. He told the Nigerians that exploiting the poor and ignorant is a "crime against God's work."

But preaching against the use of condoms makes it very difficult for the poor and the ignorant. In an article in the *Sydney Morning Herald* on 26 January about the right of Catholic priests to marry, Linda Morris said:

Australian Catholic priests are urging Rome to overturn its ban on married clergy as the church grapples with a chronic shortage of ordained priests.

The unprecedented submission to the Vatican directly challenges the obligation of celibacy, a prerequisite of the Catholic priesthood, and has reignited a debate within the church that has been simmering since the Middle Ages.

The National Council of Priests wrote to the Vatican's Synod of Bishops last month arguing that marriage should be no bar to ordination and asking the church to consider readmitting priests ...

Pope John Paul II wrote in his book *Memory & Identity* about "the legal extermination of human beings conceived but unborn". He said their "extermination" was "decreed by democratically elected parliaments, which invoke the notion of civil progress for society and for all humanity". A day after the Pope's book was published in Italy there was massive media coverage throughout the world, no doubt a comfort to the publishers, Rizzoli in Italy and Orion Books in Britain. The reaction to the Pope's comments came mainly from the Jewish community, rather than from homosexuals, whom the Pope also attacked. He condemned legislation allowing gay union as an "alternative type of family with the right to adopt children". He suggested it was an ideology of evil. I believe people do not choose to be homosexual; they find they are homosexual. To make life difficult for them is less than helpful.

In Pope John Paul II we had a man who was undoubtedly great, a man who was genuinely loved, a man who had extraordinary power, a man who had an extraordinary number of followers, a man who has had a million people file past him as he lies in state, a man who has inspired two million people to go to Rome for his funeral, and a man who witnessed the end of communism in his native Poland and in a partisan way defended Solidarity, the union that stood against communism in his own country.

But Pope John Paul II leaves us with cardinals who may well continue the legacy of conservatism in matters of ordination of women, contraception and abortion, celibacy and, perhaps most importantly, the consequences of the doctrines of celibacy and abstinence: the spread of AIDS in cultures that simply are not attuned to the idea of abstinence. Pope John Paul II must be acknowledged as a great man, but let us hope that some of the less progressive aspects of his legacy in the Catholic Church will be improved on by his successors. Let us also hope that his successors retain his commitment to human dignity and political freedom.

The Hon. PETER BREEN [9.41 p.m.]: Today this Parliament joins the world in mourning the loss of Pope John Paul II, a man of faith and courage, an intellectual giant and a saint in our time. He was a man of God, the servant of the servants of God, and, some would say, shaped by God for an extraordinary mission in the universal church. In 1989 I had the humbling experience of meeting the Pope in the Papal Audience Hall of Paul VI. I was a guest of a woman named Marjorie Weekes, who at that time was in charge of the Vatican communications office. I had letters of introduction to Ms Weekes from the author Morris West and from the Papal Nuncio in Canberra. I was literally whisked into the maze of rooms and offices in the Vatican, before emerging in the Papal Audience Hall with the press. Marjorie Weekes said, "You stand over there with the press," and she put a press card in my pocket, gave me a camera, and said, "When the Pope comes over and blesses the press, you've got to smile. But, whatever you do, don't take photographs; the cameras are only here for decoration, and we take the photographs afterwards."

The Hon. Catherine Cusack: Do you have a copy?

The Hon. PETER BREEN: No, I have not. Unfortunately, there were no photographs of the press with the Pope. I noted Reverend the Hon. Fred Nile had very interesting photographs. He looked much younger then.

Reverend the Hon. Fred Nile: They are official papal photographs.

The Hon. PETER BREEN: I see. There were none of the Pope with the press, unfortunately. It was an amazing experience, though, to be blessed by the Pope. The next day I was wandering in the Vatican gardens when a Russian limousine entered Vatican City through Porta Sant' Anna bearing Mikhail Gorbachev. So it was a truly historic time to be in the Vatican. At that time Gorbachev was First Secretary of the Communist Party of the Soviet Union. Some writers have said that Gorbachev was seeking an answer to Stalin's question: How many divisions has the Pope? Instead, the political head of the communist world found himself engaged in spiritual geopolitics and discussions about human rights. I have read that Gorbachev left Rome with a question of his own: How is it that after 72 years of formal national commitment to atheism, 40 per cent of Soviet citizens still believe in God?

A few weeks later the Russian physicist Andrei Sakharov died in Moscow. Sakharov turned his back on the arms race and the development of atomic weapons and began a journey that would make him what one writer called "the world's most famous political dissident and ultimately the inspiration for the democratic movement that doomed the Soviet empire." Speaking as both a scientist and political activist, Sakharov said that certain human values such as liberty and respect for individual dignity are no less immutable, inviolable and universal than the laws of physics. Sakharov also met Pope John Paul II in 1989 in the Vatican—just 10 months before the physicist's death. Andrei Sakharov is described in George Weigel's biography of the Pope as "the most revered man in Soviet history".

Mikhail Gorbachev was profoundly affected by the death of Sakharov. It was Gorbachev who, in 1986, had ended Sakharov's exile in Gorky for denouncing the Soviet invasion of Afghanistan. On becoming President of the Soviet Union in 1990, Gorbachev paid tribute to Sakharov, and he returned to visit Pope John Paul II in the Vatican. Again, by a strange confluence of circumstances, I was once more in Rome in 1990, and again I witnessed Gorbachev and his motorcade travel into the Vatican City. Those were extraordinary times. No-one really knew what was happening. And it was all happening so fast that it is only in hindsight that we really understand its significance.

Gorbachev visited Pope John Paul II twice in 11 months, and really afterwards disappeared into history. In the short period that he served as President of the Soviet Union, Mikhail Gorbachev permitted Poland, under Lech Walesa, to assert its freedom and sovereignty. The Hon. John Della Bosca made some remarks about Solidarity and the Pope teaching about the union moment and the rights of workers. That is still truly profound in terms of not just human rights but the rights of people as individuals throughout the working world. Pope John Paul II had been working with Walesa and Solidarity to defeat communism in Poland. The collapse of

communism in the Soviet Union and other Eastern Bloc countries soon followed. We may never know the full extent of the role played by Pope John Paul II in that collapse. I read in the *Economist* recently that Ronald Reagan defeated communism, but I am inclined to the view that might and money count for nothing without the indomitable will and faith of leaders such as Karol Wojtyla.

This Pope was a giant in human history and a leading advocate for the principles of universal human rights based on the dignity of the human person. He was physically strong at the beginning of his papacy and frail and infirm beyond belief at the end. Throughout his nearly 27 years as head of the Catholic Church his spirit was enlightened and he was a true mystic. I am personally inspired by this man's life and deeply proud to share his faith. He reached out to other Christians and people of other beliefs in a way that many Catholics seek to emulate.

Last night I attended, with other members, the celebration of Karol Wojtyla's life held at St Mary's Cathedral, and I was delighted to see so many religions represented at the celebration. The ceremony was a true inspiration. As I have said to other members, the three hours that we spent in the cathedral seemed to pass in an instant. The world is a better place for the life of Karol Wojtyla. As Pontifex Maximus, he is said to have bridged the gulf between God and humanity. In death, he does no less, and his work will endure forever.

The Hon. CATHERINE CUSACK [9.47 p.m.]: We are all the product of our life experiences and, in a sense, our perspectives on life are determined by those experiences. I certainly recognise that my own traditional Australian Catholic upbringing, in a country parish with an Irish priest, has marked my values and attitudes for life. One of the skills young Catholics develop is an ability to come to terms with mysteries. And one great mystery is the ability of the Pope to inspire such awe and love across so many nations, cultures and generations.

The Pope, who was born in Poland in 1920, experienced the loss of his mother at the age of eight years, the terrible effects of depression and the invasion and occupation of his homeland. He studied to become a priest in an underground seminary, and lost his brother when he was in his twenties. I can hardly imagine the horrors of the Nazi occupation of Poland. However, as a Catholic, I did feel proud and overwhelmed by the attitude that John Paul II took as Pope towards the Jewish people. He visited Jerusalem's Wailing Wall, and knelt and prayed, acknowledging that 2,000 years of prejudice by Catholics towards the Jews was wrong.

The Pope's experiences as a young Pole could not have been more different from those of the child that I was in the 1960s, or from the experiences of a child in Africa or any other continent in the world today. Yet he was able to speak to and touch men and women from all walks of life and from all life experiences.

Honourable members have spoken extremely well of the many achievements of the Pope, his gift for languages, his athleticism and his strength, his more than 100 historical visits outside of Italy when many millions were able to glimpse the Holy Father with their own eyes in their own country, and his sense of humour and humanity in reaching out to other faiths and religions in a way that was unprecedented in the history of the Catholic Church. The Pope cared deeply for young people, indeed for all people. He was very strong in his teachings. Pope John Paul II was a courageous leader. His nettle was tested by war and communism. There is no doubt that his election as Pope sent a wave of optimism and resolve across his native Poland at a crucial stage of its history. He worked tirelessly against communism at a crucial time in world history. The role he played place him as a towering figure in the twentieth century. I know Cardinal Pell has described Pope John Paul II as the greatest figure of the second half of that century.

It is not uncommon to find Catholics at the racecourse. In 1987 I was one of tens of thousands of Catholics who turned out at Canberra racecourse to attend the Mass given by the Pope. He arrived in the famous Popemobile, which the children found almost as intriguing as the Pope himself. There can be no doubting his charisma and holiness. The entire racecourse was full, and the rest of Canberra was empty. During the Mass you could have heard a pin drop. It was an extraordinary experience and, like many millions of Catholics touched in this way, I thank him for it. Like most Australian Catholics I have grown up fairly oblivious to church politics. Some honourable members, not all of them Catholics, have reflected tonight on theological issues and the nature of the teachings of Pope John Paul II. These teaching have been strong and consistent. The Pope regarded the twentieth century as a period of unparalleled evil, marked by war and secularism. Australian Catholics value discussion on all issues. Discussion of ideas is a valuable and essential part of teaching and growing.

Some directives from the Vatican have not received 100 per cent agreement from all Australian Catholics. But unlike other faiths, Catholics take these many rules and directives in their stride. Big meetings

and big fuss are really not the way of the Australian Catholic, and probably this is not the time for that type of reflection on those types of issues. The manner in which all Catholics are united in their sense of loss and the celebration of the life of Pope John Paul II is perhaps the greatest achievement of all in these very challenging times. In paying tribute to His Holiness Pope John Paul II many are also giving thought to the future of the church. The Cardinals in Rome are preparing for their decision. The issues facing Australian Catholicism are profound, and the policies of the new Pope will impact directly on all of our lives. I pray that the policies will be wise, compassionate and inclusive. As Pope John Paul II showed, there is a great opportunity in the world today for leadership. There is a great need for this leadership. It will be a great responsibility and burden to him who is chosen. The legacy of Pope John Paul II will be the example he set for all us, a man of extraordinary faith, humility and strength. I am sure all members of this Chamber wish his successor every success in his leadership of the Vatican in these difficult times.

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) [9.52 p.m.], in reply: On behalf of the Government I thank all honourable members for their contributions. I echo some of the points made by the various speakers. In some ways the measure of the Pope was that he was a man for all seasons. He appealed to people with all sorts of different values. It is important to remind people that, as the Hon. Dr Arthur Chesterfield-Evans indicated, even though some people might find aspects of the Pope's teachings difficult to understand, his teachings on a number of matters were very clear and unambiguous. My understanding of his teaching on homosexuality is that being homosexual is not, per se, a sin, but homophobia is, per se, a sin. I am pleased that honourable members have chosen to pay their respects to His Holiness the Pope. The Clerk and I did some private research, which may be of some interest to the historians amongst us. As far as we could gather, five Popes have passed from this world since the inception of this House but the House has remained silent until the passing of this Pope. We are not exactly sure of the historical reasons behind that, whether it is just coincidence or whether it has some other significance. I am sure the Catholics of Australia and the world are grateful that our small contribution to honouring His Holiness has been respectful and dignified.

Motion agreed to.

ADJOURNMENT

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands) [9.55 p.m.]: I move:

That this House do now adjourn.

PUBLIC TRANSPORT SECURITY

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [9.55 p.m.]: It is 391 days since the horrific terrorist attack on the Madrid rail system. Extremist Islamic groups detonated 10 bombs disguised in backpacks on four trains. This terrorist attack claimed the lives of 191 passengers. More than 1,800 people were physically injured and, no doubt, countless numbers, arguably the entire nation, were affected in other ways. For many years we have witnessed attack after attack on public transport in the Middle East, but it was this well co-ordinated and brutal attack on innocent early-morning commuters that has given cause for transport providers worldwide to consider their level of security and initiatives introduced elsewhere. In New South Wales the State Government has become increasingly reliant on closed-circuit televisions [CCTVs] as the answer to security concerns. With more than 6,000 allegedly monitored by little more than a handful of observers I am concerned that the placebo effect of these cameras has lulled the public into a false sense of security.

When one considers the revelations at a leading summit on terrorism and rail safety that I attended in Sydney last year that the Madrid terrorists were observed over the CCTV network wearing balaclavas and moving on and off trains before the detonation of the bombs, it falls to all policymakers to ensure that governments adopt the latest techniques not only to build confidence but also to prevent opportunities in risk areas. A recent passenger survey found little contact with transit officers or police on our rail system, with 39 per cent of respondents saying they saw transit officers at least once a month or less. Yet 30 per cent said they had felt threatened by the actions of other people on the train or at a station, and 20 per cent of train users reported witnessing, or being the victim of, criminal activity or violent behaviour either at a station or on a train. I will not take this opportunity to discuss the effectiveness or otherwise of transit officers, but I will say that more can be learned from other westernised rail systems in returning significant numbers of police officers to a proactive law enforcement and preventive role on our transport system.

The British Transport Police are sworn police officers. There are currently 2,280 police officers, including 304 Criminal Investigation Department officers. In addition there are 221 police specials and a further 700 police support staff. They are protecting a travelling population of more than 5.5 million people each day, but more than 130,000 rail staff. On the London Underground there are 567 police officers and 118 police staff. For the entire State of New South Wales we have arguably 300 police contracted to transit duties. As I have said previously, the Government's current policy towards the use of CCTVs is only good after the event, but try telling someone who is the victim of crime that this is a good community safety measure. Recent events involving our transport system hardly instil confidence that the necessary training, personnel and resources are being committed to providing a safe system.

In September last year the Opposition raised concerns about the handling of an incident involving a suspicious bag that was left on a Sydney train. A passenger, upon finding the bag, was told by a guard to put it back because someone would come back for it. The train was then allowed to continue into the underground system carrying the bag. All of us can remember the gas leak incident involving our underground system. On this occasion a suspicious odour, later attributed to a maintenance bungle involving a Tangara train, exposed for all to see a lack of preparedness in the CBD to handle a major emergency. But the risks are not limited to rail. One need only look at recent reports of violence upon vulnerable bus drivers as further proof that a visible deterrent is indivisible.

If the bus drivers are vulnerable to attack, it will come as no surprise that passengers travelling on the passenger transport system will also be vulnerable as they go about their daily lives. Confidence in our transport system is the fundamental basis for its effectiveness—not only confidence in its reliability and safety but equally confidence in the Government's recognition of the need to provide a secure public transport system. At this point in time, I think we yet have much to learn.

SUPPORTED ACCOMMODATION ASSISTANCE PROGRAM

Ms SYLVIA HALE [9.59 p.m.]: The Supported Accommodation Assistance Program [SAAP] is a program that is jointly funded by the Federal and State governments. SAAP funds more than 1,200 homelessness accommodation and support services across Australia. The Federal and State governments are currently negotiating a new SAAP agreement for the next five years. The Greens are concerned that in December last year Senator Kay Patterson, the Federal Minister for Family and Community Services and Minister Assisting the Prime Minister for Women's Issues, announced that there will be no new money for SAAP services coming from the Commonwealth Government. She announced that any new funding would come from the States and that the Commonwealth would be demanding that the States match Federal funding dollar for dollar. However, the problem with that position is that the New South Wales Government already matches the Commonwealth's funds, yet the level of joint funding remains dangerously low.

If Senator Patterson and Prime Minister Howard cannot be convinced of the need to reverse their decision, it will be crucial for the New South Wales Government to allocate more funds to SAAP programs to avoid the doors of some services closing. So far the State Government has been silent on whether it will increase its funding, while the Minister for Community Services has indicated that there are "serious demand and viability pressures facing the SAAP sector". In fact, the Minister's press release of 11 March 2005 notes that "to simply maintain the current system in its present form, additional funding would be required to sustain service viability". If the Commonwealth Government and the State Government refuse to provide any new funding, the result will be significant cuts in funding to SAAP programs in real terms. Yet SAAP is the major national initiative in relation to homelessness.

The services delivered by SAAP are diverse and successful. They are located in capital cities, and in rural, metropolitan and remote areas. They support young people, older men and women, and children who are escaping domestic violence. They support families as well as single men and women. The services are diverse so that they can meet the specific needs of their clients. The workers in these services are obviously dedicated professionals who are assisting the most disfranchised people in Australia. They support them as they try to regain a safe and secure home, regular employment and a level of independence—things that many people in this Chamber take for granted. The funding problems that SAAP faces are not new. SAAP historically has been underfunded, and services have struggled to meet increasing fixed costs, such as occupational health and safety requirements and insurance, while trying to service greater numbers of people. In 2004-05 New South Wales SAAP funding grew by less than 1 per cent in real terms, yet 1,000 more clients required services—an increase of 3.7 per cent.

A recently completed independent evaluation of SAAP 4 argued that the levels of extra funding envisaged to sustain SAAP viability are "in the order of 15 per cent of current funds". If that 15 per cent is provided, services may not have to shut their doors. But to really cope with the increasing demand for SAAP

services and to be able to run the types of programs that can truly assist people to move into more secure housing, the sector needs a funding increase of between 30 and 40 per cent. Statistics show that SAAP achieves improved accommodation outcomes for many SAAP clients. In particular, there is a noticeable shift from living in a car, a park, a street or a squat toward living in far more secure housing. SAAP meets the requested needs of its clients in 93 per cent of cases. Where a support plan with client goals has been established, the majority of these goals have been achieved. But without these services and without expert staff to run them, such successes would not be possible.

We already know that 67,000 requests for SAAP services from children and families, young people, men, women, indigenous and migrant Australians could not be met during 2002-03. This dire situation will only get worse if funding for SAAP does not increase to enable a program to reach all people who are experiencing homelessness. It is now 18 years since the Year of the Homeless. Is it not about time that homelessness services were funded adequately by both the Commonwealth and State governments and for the rhetoric and buck-passing to end? It really is time to stop mouthing fine words and to act to solve the homelessness crisis in this country.

INTERNATIONAL WOMEN'S DAY

The Hon. JAN BURNSWOODS [10.04 p.m.]: I commence my speech with remarks about International Women's Day and later I will be referring to some events that happened yesterday and today. On Tuesday 8 March, together with a group of approximately 950 women, I attended a breakfast organised by Unifem to commemorate International Women's Day. It was a very successful function indeed. Later that morning I went to another inspiring function held by the University of Western Sydney to also celebrate International Women's Day. That function launched the preliminary edition of the life story of a quite inspirational Aboriginal woman, Nancy de Vries, in a book titled *Ten Hours in a Lifetime*. The event was made more striking by the fact that the book was launched by Gough Whitlam, who has a long association with the University of Western Sydney.

Gough Whitlam is inclined to talk about historical matters, particularly matters dealing with events between 1972 and 1975, but what was particularly memorable was that he dealt with the needs of women and children in Australia that were perceived and acted upon by the Whitlam Government. Gough being Gough, he not only gave a copy of his speech but also gave, among other things, copies of a number of documents relating to International Women's Year in 1975. I invite anyone to look at those documents because they are very interesting and they remind us of the achievements of the Whitlam Government and the fact that services and facilities for women and children have gone backwards since that period.

Together with a number of other members of this House and the other House and women in particular from a variety of organisations, last night I took part in the third launch of the history of the women's refuge in New South Wales. The need for women's refuges was first recognised during the period of the Whitlam Government, and that need continued over the ensuing 30 years. It is amazing that that history is only the third book to record the history of a large number of women's refuges in New South Wales. While in some ways it is joyful to mark all of those important milestones achieved by women associated with the refuge in Taree, it is also sobering to realise how much remains to be done and to examine some of the statistics on domestic violence and its effect on families as well as women and children in particular.

That brings me to the issue of child care—or perhaps more precisely the shortage of child care. Over recent years much has been said about the needs of families and much of what has been said is rhetoric. I cite today's media release from EMILY's List Australia by Joan Kirner, a former Premier of Victoria:

It is absurd for the Howard Government to force any parents back into the workforce without providing adequate assistance for them to do so. The Treasurer Peter Costello cannot expect single parents on low incomes to enter employment—and put themselves at risk of losing their government benefits—without ensuring adequate places in quality, low-cost childcare, especially for 1-3 year olds.

Repeated calls for the Howard Government to address this crisis from industry activists, peak bodies, parents and unions appear to have gone unheeded.

[Time expired.]

QUEANBEYAN HOUSES ASBESTOS REMOVAL

The Hon. PATRICIA FORSYTHE [10.09 p.m.]: On 4 March 2005 a letter was published in the *Canberra Times* under the heading "Queanbeyan families living with asbestos in their ceilings". The letter was written by Dr Keith McKenry, formerly the General Manager of the Australian Capital Territory Asbestos Removal Program. After reading the letter I contacted Dr McKenry to learn more about his concerns. He

advised me that I was the first person to have made contact with him about his concerns since he first raised them in the late 1980s and again in the early 1990s. Frankly his concerns cannot be ignored. I call on the Carr Government and the Queanbeyan City Council to investigate the issue and provide funds so that Queanbeyan homes found to be contaminated can be cleared. Dr McKenry has forwarded to me a paper that he wrote about the issue in the early 1990s, which states:

The neighbouring cities of Canberra and Queanbeyan share the awful distinction of being the only places in the world where pure loose asbestos is known to have been pumped into ceiling spaces, as domestic insulation.

The most common forms of asbestos-containing material, such as 'fibro-cement' sheeting and sprayed-on fireproofing/thermal insulation often contain only a small proportion of asbestos, and this asbestos is normally fixed in place. Concern about the health risks associated with these materials has nonetheless been such that they are now being removed at great expense from buildings and other places where people might be exposed to them.

The asbestos insulation in Canberra and Queanbeyan homes, however, is 100% pure, and loose—with the fibres free to become airborne and inhaled into the lung—and so presents a hazard to human health out of all proportion to that presented by the more familiar forms of asbestos-containing material ...

The paper reported that this occurred in 1968 when a Canberra businessman imported pure amosite, known as grey asbestos, from South Africa in the form of loose fluff as ceiling insulation. Dr McKenry believes this may have been the first and only occasion anywhere in the world where pure asbestos was used for this purpose. In 1988-89 the Australian Capital Territory Government, in response to concerns raised, established an Asbestos Branch and undertook a survey of all 65,000 homes built in the Australian Capital Territory before 1980 and identified 1,050 Canberra homes containing pure loose asbestos. Previously, in 1984, Australian Capital Territory authorities had issued a building note alerting householders to the so-called dust issue and action that should be taken. No such action took place in New South Wales in 1984 or later.

The process to eradicate the asbestos took a number of years and cost approximately \$100 million, or \$100,000 for each house, which had to be vacated for five or six weeks during the eradication process. Dr McKenry noted in his paper that while the majority of houses showed little, if any, contamination in the living areas, it was obvious that in a number of instances people had received significant exposure to the asbestos material. It is Dr McKenry's view that based on the incidence of the material in Australian Capital Territory homes, potentially about 60 homes in Queanbeyan and surrounding areas could be affected. Apparently the Queanbeyan City Council knows of the existence of the material in eight houses but no comprehensive survey of Queanbeyan houses has been undertaken as was undertaken in the Australian Capital Territory.

As the letter of 4 March noted, there has been a conspiracy of silence surrounding the existence of the material in Queanbeyan homes—a conspiracy of silence that must be ended. The Premier has made much of his actions in relation to James Hardie Industries, but some of his government departments, most notably NSW Health—but not only NSW Health—will have file notes on this issue. It is no credit to the former Coalition Government that at the beginning of the 1990s when it was alerted to the issue it, along with the council, chose to do nothing.

It is no credit to the Carr Government that after 10 years of government it, too, has done nothing. The figure of 60 houses is based on the incidence of the material in homes in the Australian Capital Territory and applied on a pro rata basis. At the end of the day, it is not the number of houses but the existence of the material in houses that is disturbing. Dr McKenry called his paper a "Tale of Two Cities". Indeed it is. What a contrast in response: \$100 million dollars versus zero. I call on the Premier to take up this issue on behalf of the people of Queanbeyan. [*Time expired.*]

JESUS CHRIST

Reverend the Hon. FRED NILE [10.14 p.m.]: The events of this week have brought us face to face with eternity, with both life and death. This has led me to speak on the uniqueness of Jesus Christ. I ask: Who was Jesus Christ? Who was the man who said, "Feed my sheep" and "Follow me"? Each of us has to answer those questions. In his person, Jesus Christ was unique; he was both fully human and fully divine. He had human characteristics but revealed to us both death and resurrection. He is the only one to have been called "the only begotten Son of God". Jesus Christ made unique claims, using the words "I am" at the beginning of each claim. He used the words in an emphatic way, such as "I am the bread of life", "I am the Light of the world", "I am the door of the sheep", "I am the Good Shepherd", "I am the Resurrection and the Life", "I am the Way, the Truth and the Life", and "I am the true Vine".

Everyone would agree that those are extraordinary claims. Either they are true or Jesus Christ was a liar or a megalomaniac. Those of us who believe in Him believe the words are true. He was also unique in His power. He revealed power over religion, sickness, nature, demons, sin, tradition and death. Most particularly,

Jesus Christ was unique in his purpose. No other human being has had His purpose, which was to save sinners, to serve, to give His life as a ransom, to seek and save the lost, to bring abundant life, to bear witness to the truth, and to destroy the works of the devil. Only a person who is both God and man could carry out those purposes. As a man He had the authority to bear our sins; as the Son of God He had the capacity to bear our sins.

Jesus Christ was unique in His presence. He was God among us in His physical presence on Earth. He is God among us now through the Holy Spirit. He will be with us in the future when we join Him in heaven, or when He returns to Earth, as He promised, before each one of us dies. Jesus Christ was unique in prophecy. He is the only person whose birth, life, death and resurrection were foretold. The Book of Isaiah, a prophetic book, described Him 700 years before His birth as the "Lord of Hosts", "Immanuel", "Wonderful Counsellor", "the Mighty God", "the Everlasting Father", "the Prince of Peace", "the Suffering Servant", "The Man of Sorrows", and "the Anointed Deliverer".

In the Book of Revelations, at the end of the New Testament, He is described as "the King of kings", "the Lord of Hosts", the "Lamp of heaven", "the First and the Last", the "Alpha and the Omega", "the Beginning and the End", "the Root and Offspring of David", "the Bright and Morning Star, He is the Lord Jesus!" I am sure everyone would agree that He was unique in every way. Jesus was not just another religious figure.

The final question I ask is: Who do you think Jesus Christ was? The simple answer is to believe that He can and should be your saviour; have that faith and then receive Jesus Christ into your life as a living spirit, where He is truly the way, the truth, and the life. Who was Jesus Christ? Each one of us has to answer that question.

GOLDBRIDGE CLOTHING COMPANY PTY LTD, BEXLEY

The Hon. IAN WEST [10.19 p.m.]: Just over a month ago an employee of garment subcontractor Goldbridge Clothing Pty Ltd, a clothing company in Bexley, made contact with the Textile Clothing and Footwear Union of Australia [TCFUA] through a third party after becoming concerned about being physically locked by his or her employer in a workplace with flammable material. Let us look at the facts of the matter. Until 2001 Goldbridge operated legally in a factory in Hurstville. Goldbridge then moved to Bexley and, for four years, operated illegally as a clothing factory until February this year. Goldbridge would have continued to operate illegally had the TCFUA not been contacted by a third party who was concerned about the welfare of people working in that establishment. The TCFUA apportioned no special treatment to Goldbridge when it attended the factory in Bexley.

A video of the inspection ensures that if Goldbridge operated illegally it is not able to destroy evidence of that illegal behaviour. When the TCFUA entered the garage factory six workers were present, besides the owner, who was not prepared to identify herself in the first instance. The inspection revealed 12 sewing machines, one pressing table and racks of processed garments in an unapproved attachment to the garage, boxes and piles of flammable material stacked to the ceiling, double-locked security doors, bars on the windows, and cameras in the workplace directed into the street. Since this matter arose, no fewer than six bomb threats have been made against the TCFUA. It appears that whoever is behind these bomb threats has a great deal to gain by scaring people away from looking properly into matters such as this. Tonight I shall deal with the legality of the union's actions and the status of persons working for Goldbridge. Goldbridge stated in correspondence to the union:

"Most of the self-employed person or company works at their own places. Some of them request to place the machine at our home and come anytime they like."

Clause 1 (f) in schedule 1 to the Industrial Relations Act 1996 defines an employee as:

"Any person (not being the occupier of a factory) who performs outside a factory any work in the clothing trades or the manufacture of clothing products, whether directly or indirectly, for the occupier of a factory or a trader who sells clothing by wholesale or retail. (In such a case, the occupier or trader is taken to be the employer.)"

Clearly, these workers have been deemed by statute to be employees. In addition, the common law also characterises these workers as employees. Goldbridge has control over its employees since it specified the level and standard of work required for those working both inside and outside the factory. I turn now to the matter of whether the union entered the factory or a home. Under sections 77 and 78 of the Occupational Health and Safety Act 2000 "an authorised representative" of the union has the power to enter premises when clothing work

is being performed "without notice" for the purpose of investigating work safety breaches. Section 80 of the same Act provides that an officer may not enter "any part of premises used only for residential purposes". The video clearly shows members of the TCFUA entering and standing in the garage with an employee. It is the garage that has double-locked doors, bars on the windows and cameras, and it is the garage that contains the flammable material and the workstations. There can be no reasonable argument to suggest that the garage was "used only for residential purposes".

Under sections 76, 77, 78 and 51 of the Occupational Health and Safety Act 2000 any registered organisation of employers or employees can enter a factory if it believes the factory to be unsafe. The union's further and separate use of its additional power under section 298 of the Industrial Relations Act 1996 fully complied with all legal requirements for prior notification. The mere fact that the doors were deadlocked renders the workplace unsafe. Pursuant to section 78 of the Occupational Health and Safety Act TCFUA officials entered the premises. Right of entry cards were shown to the employer and to occupants. There are laws that protect people who are vulnerable in these circumstances. The Occupational Health and Safety Clothing Factory Registration Regulation 2001 defines a clothing factory as:

"... any building or place in which:

- (a) four or more persons are engaged directly or indirectly in any handicraft or process in or incidental to the making ... or finishing of any clothing, fabrics, ... for trade, sale or gain, or.
- (b) mechanical power is used in aid of any handicraft or process in or incidental to the making ... of any clothing ... for trade, sale or gain."

Goldbridge and others have also argued that the council has allowed them to operate. This furphy creates even more issues for Goldbridge. Rockdale council planning officers have deemed the garage to be an exempt development under clause 21 in development control plan [DCP] 57, which sets out requirements for home occupation. The exemption states that the occupation "must be situated within the dwelling only and not in a garage, carport or any ancillary structure or yard area". The DCP states that the work referred to must be carried out by "permanent residents" of the home. Goldbridge has disregarded each of the above clauses in Rockdale's DCP. Goldbridge clothing proprietors must determine what they are doing. So must their supporters and barrackers. [*Time expired.*]

DEATH OF HIS SERENE HIGHNESS PRINCE RAINIER III

The Hon. DON HARWIN [10.24 p.m.]: Today has been a day for condolence motions. With all attention having been focused on the death of the Pope, a major figure, many honourable members would not have heard of the passing tonight of His Serene Highness Prince Rainier III from the Principality of Monaco. Prince Rainier's reign was lengthy and he achieved a great deal of good. I am sure all honourable members would want to extend their sympathies to the Grimaldi family.

Motion agreed to.

The House adjourned at 10.25 p.m. until Thursday 7 April 2005 at 11.00 a.m.
