

10/50 VEGETATION CLEARING CODE OF PRACTICE.....	1257
ADJOURNMENT	1326
ASSENT TO BILLS.....	1266
BRIDGES FOR THE BUSH.....	1256
BUSINESS OF THE HOUSE	1240, 1241, 1241
CAP AND PIPE THE BORES PROGRAM	1258, 1266
CAPITAL PUNISHMENT.....	1330
COASTAL INTEGRATED FORESTRY OPERATIONS APPROVALS	1259, 1260, 1263
E-CIGARETTES	1240
ELECTRICITY NETWORK ASSETS (AUTHORISED TRANSACTIONS) BILL 2015	1250, 1267
ELECTRICITY PRIVATISATION	1327
ELECTRICITY RETAINED INTEREST CORPORATIONS BILL 2015.....	1250, 1267
FAIR TRADING LEGISLATION (REPEAL AND AMENDMENT) BILL 2015	1326
FIT FOR THE FUTURE	1326
GENERAL PURPOSE STANDING COMMITTEE NO. 3	1266
GENERAL PURPOSE STANDING COMMITTEE NO. 6	1238
GOLD COAST AIRPORT CROWN LAND LEASE.....	1263
GUN-RELATED CRIME	1258
HEAVY VEHICLE MASS LIMITS	1264
HOME CARE SERVICE	1255
HORNSBY DISABILITY SERVICES	1262
HOSPITAL INPATIENT AND STAFF SCREENING PROTOCOLS	1260
ILLAWARRA AND SOUTH COAST INFRASTRUCTURE	1261
INDEPENDENT COMMISSION AGAINST CORRUPTION	1240
INDEPENDENT PRICING AND REGULATORY TRIBUNAL AMENDMENT (ACCREDITED STATE WATER REGULATOR) BILL 2015.....	1241
INTERNATIONAL NURSES DAY 2015	1237
LEGAL PROFESSION UNIFORM LAW APPLICATION LEGISLATION AMENDMENT BILL 2015.....	1241
MR ADAM GOODES.....	1239
MULTICULTURAL NSW	1262
MURWILLUMBAH DISTRICT HOSPITAL	1257
NATIONAL SCHIZOPHRENIA AWARENESS WEEK	1237
NEW SOUTH WALES YOUNG LIBERAL FLYING SQUAD.....	1331
NSW PREMIER'S LITERARY AWARDS	1257
NSW/ACT REGIONAL ACHIEVEMENT AND COMMUNITY AWARDS	1329
NURSING ACCREDITATION	1262
OFFICE OF WOMEN.....	1265
PUBLIC SCHOOL ENROLMENT FORM	1265
QUESTIONS WITHOUT NOTICE.....	1255
RELIGIOUS EDUCATION AND SCHOOL ETHICS CLASSES.....	1328
RHYMES WITH SILENCE.....	1238
SYDNEY NEURO-ONCOLOGY GROUP RESEARCH FUNDRAISING.....	1238
TABLING OF PAPERS	1240
TOURISM AND MAJOR EVENTS	1265
UNPROCLAIMED LEGISLATION	1240

LEGISLATIVE COUNCIL

Wednesday 3 June 2015

The President (The Hon. Donald Thomas Harwin) took the chair at 11.00 a.m.

The President read the Prayers.

Pursuant to sessional orders Formal Business Notices of Motions proceeded with.

NATIONAL SCHIZOPHRENIA AWARENESS WEEK

Motion by the Hon. NATASHA MACLAREN-JONES agreed to:

- (1) That this House notes that:
 - (a) National Schizophrenia Awareness Week is an annual event held in May and an opportunity to raise community awareness of schizophrenia and support research initiatives;
 - (b) this year, National Schizophrenia Awareness Week will be held from 17 to 23 May and a range of activities, events and information displays have been organised by mental health organisations;
 - (c) schizophrenia is a complex disorder and affects approximately one in every 100 people worldwide and commonly begins in adolescence or early adulthood; and
 - (d) approximately 5 to 10 per cent of people diagnosed with schizophrenia will end their own lives.
- (2) That this House recognises:
 - (a) that sharing information about and developing a wider understanding of complex mental illnesses such as schizophrenia will improve the wellbeing of the community and ensure better outcomes for people with mental illness, their families and carers;
 - (b) the vital contribution that carers across New South Wales make; and
 - (c) thank carers for their role in supporting people who experience mental illness.

INTERNATIONAL NURSES DAY 2015

Motion by the Hon. NATASHA MACLAREN-JONES agreed to:

- (1) That this House notes that:
 - (a) nurses are the single largest profession in the health workforce, and provide an invaluable contribution to the wellbeing of healthcare patients in Australia and across the world; and
 - (b) the New South Wales Government has employed 3,400 additional full-time equivalent nurses and midwives in New South Wales hospitals since March 2011.
- (2) That this House thanks the 48,000 nurses and midwives in the New South Wales public hospital system for the invaluable service they provide to the community and the significant contribution they make to improve the health of the population.
- (3) That this House notes that International Nurses Day is celebrated globally on 12 May each year and:
 - (a) the day marks the birthday of Florence Nightingale, the founder of nursing as a profession and crusader for health and social reforms;
 - (b) the day is a time to reflect on the clinical care and emotional support that nurses provide to more than 1.5 million patients in New South Wales in hospitals, at home and in the community; and
 - (c) the theme of 2015 International Nurses Day is "Nurses: A Force for Change: Care Effective, Cost Effective", which highlights the potential of the nursing profession as a force for change to improve health care outcomes.

SYDNEY NEURO-ONCOLOGY GROUP RESEARCH FUNDRAISING

Motion by the Hon. Shaoquett MOSELMANE, on behalf of the Hon. SOPHIE COTSIS, agreed to:

- (1) That this House notes that:
 - (a) on Sunday 3 May 2015 a fundraising luncheon was held at the Greek Orthodox Parish of St George in Rose Bay to support the Sydney Neuro-Oncology Group's research into brain tumours;
 - (b) the fundraising luncheon was organised by members of the Greek Australian community led by Ms Suzanne Peponis-Brisimis;
 - (c) the luncheon raised over \$27,000 for research into brain cancer; and
 - (d) in recent months the Greek Australian community has raised more than \$133,500 for brain tumour research and support including \$28,500 raised by the Australasian Hellenic Educational Progressive Association.
- (2) That this House congratulates members of the Greek Australian community on the philanthropic efforts to support vital medical research.

RHYMES WITH SILENCE

Motion by Dr MEHREEN FARUQI agreed to:

- (1) That this House notes that:
 - (a) on the weekends of 16 and 23 May 2015, Improvising Change performed "Rhymes with Silence", a series of 13 plays about domestic violence;
 - (b) Improvising Change is a Sydney based company focused on theatre for social development;
 - (c) "Rhymes with Silence" was supported by 107 Projects, Women's Legal Service NSW, Mamapalooza, Domestic Violence NSW and Actors Anonymous Inc.;
 - (d) "Rhymes with Silence" examined the hard hitting reality and horrific impacts of domestic violence on women, children and families across the community; and
 - (e) 2015 Australian of the Year, Ms Rosie Batty, spoke after the performance and stressed the need for the funding of women's services and education programs.
- (2) That this House:
 - (a) congratulates Improvising Change for raising awareness about domestic violence; and
 - (b) calls on the New South Wales Government to act urgently and do everything possible to break the cycle of domestic and family violence.

GENERAL PURPOSE STANDING COMMITTEE NO. 6

Reference: Vocational Education and Training

The Hon. PAUL GREEN: I seek leave to amend Private Members' Business item No. 169 outside the Order of Precedence by omitting paragraph 1 (f) (iii) and inserting instead:

- (g) and any other related matter".

Leave granted.

Motion by the Hon. PAUL GREEN agreed to:

- (1) That General Purpose Standing Committee No. 6 inquire into and report on vocational education and training in New South Wales, and in particular:
 - (a) the factors influencing student choice about entering the vocational education and training system including:
 - (i) motivation to study;
 - (ii) choice of course, course location and method of study; and
 - (iii) barriers to participation, including students in the non-Government education and home schooling sectors.

- (b) the role played by public and private vocational education providers and industry in:
 - (i) educational linkages with secondary and higher education;
 - (ii) the development of skills in the New South Wales economy;
 - (iii) the development of opportunities for unemployed people, particularly migrants and persons in the mature workers' category, to improve themselves and increase their life, education and employment prospects; and
 - (iv) the delivery of services and programs particularly to regional, rural and remote communities.
 - (c) factors affecting the cost of delivery of affordable and accessible vocational education and training, including the influence of the co-contribution funding model on student behaviour and completion rates;
 - (d) the effects of a competitive training market on student access to education, training, skills and pathways to employment, including opportunities and pathways to further education and employment for the most vulnerable in our community including those suffering a disability or severe disadvantage;
 - (e) the level of industry participation in the vocational education and training sector, including the provision of sustainable employment opportunities for graduates, including Competency Based Training and the application of training packages to workforce requirements; and
 - (f) The Smart and Skilled reforms, including:
 - (i) alternatives to the Smart and Skilled contestable training market and other funding policies;
 - (ii) the effects of the Smart and Skilled roll out on school based apprenticeships; and
 - (g) and any other related matter.
- (2) That the committee report by Tuesday 17 November 2015.

MR ADAM GOODES

Motion by Mr JEREMY BUCKINGHAM agreed to:

- (1) That this House notes that:
- (a) Mr Adam Goodes is a professional Australian Rules football player with the Sydney Swans in the Australian Football League [AFL];
 - (b) Mr Goodes is a dual Brownlow Medallist, dual premierships player, four-time All-Australian, and a member of the Indigenous Team of the Century who has represented Australia in the International Rules Series;
 - (c) Mr Goodes holds the most games played record for the Sydney Swans, a record he achieved when he played 304th game in Round 5, 2012;
 - (d) Mr Goodes is of Aboriginal descent and is active in the Sydney and Australian Indigenous community, and he has spent time working with troubled Indigenous youth, including those in youth detention centres, along with his cousin and former teammate Michael O'Loughlin;
 - (e) Mr Goodes is a supporter of the Recognise movement which seeks to recognise Aboriginal and Torres Strait Islander peoples in the Australian Constitution and ensure there is no place in it for racial discrimination;
 - (f) on Friday 29 May 2015 Mr Goodes performed a "war dance" in celebration of a Sydney Swans goal against the Carlton Football Club at the Sydney Cricket Ground; and
 - (g) Mr Goodes learned the dance from the Flying Boomerangs, an under-age Indigenous AFL team.
- (2) That this House recognises and supports:
- (a) the actions of Mr Goodes in celebrating his goal and Aboriginal culture;
 - (b) the important role sport and cultural expressions such as Aboriginal war dances, the Maori Haka and Tongan Sipi tau play in building understanding between cultures and fighting discrimination; and
 - (c) the proud tradition of Australia's Aboriginal sports men and women such as Johnny Mullagh, Eddie Gilbert, Yvonne Goolagong, Lionel Rose, Arthur Beetson, Syd Jackson, the Ella brothers, Nicky Winmar, Cathy Freeman, Nathan Jawai, Tony and Anthony Mundine, Nova Peris-Kneebone, Jade North and Adam Goodes who have used their profile to fight racism and as a role model to all.
- (3) That this House condemns Mr Eddie McGuire, the President of the Collingwood Football Club, for:
- (a) his comment that "This is a made-up dance, this is not something that has been going on for years."; and
 - (b) being a continual boofhead.

E-CIGARETTES

Motion by Mr JEREMY BUCKINGHAM agreed to:

That this House notes that, according to a survey released today by the Cancer Council NSW of 1,001 New South Wales residents aged 18-64 years:

- (a) 24 per cent of young adults reported using e-cigarettes;
- (b) The top two reasons for first trying an e-cigarette among 18-24 year olds were "because of the novelty" and "because my friends use them";
- (c) 73 per cent of adults agreed that "similar restrictions to cigarettes and tobacco products should be applied to e-cigarettes" and this was universal across sub-groups of smoker status and e-cigarette use;
- (d) 86 per cent agreed the sales of e-cigarettes to minors should be banned;
- (e) 75 per cent supported banning their use in enclosed places where smoking is banned;
- (f) 69 per cent supported banning their use in outdoor areas where smoking is banned;
- (g) 55 per cent supported banning in-store advertising and promotional displays;
- (h) 55 per cent supported banning fruity, sweet or confectionery like flavours; and
- (i) 72 per cent agreed that e-cigarettes should be classified as a drug based product, as other pharmaceutical Nicotine Replacement Therapies, like patches and gum.

BUSINESS OF THE HOUSE

Routine of Business

[During the giving of notices of motions.]

The PRESIDENT: Order! I call the Hon. Peter Phelps to order for the first time.

TABLING OF PAPERS

The Hon. Niall Blair tabled the following paper:

Passenger Transport Act 1990—Report of the Office of Transport Safety Investigations entitled "Bus Safety Investigation Report: Bus Wheel Separation, Macquarie Park", dated 22 October 2014.

Ordered to be printed on motion by the Hon. Niall Blair.

UNPROCLAIMED LEGISLATION

The Hon. Niall Blair tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 2 June 2015.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The President tabled, pursuant to the Independent Commission Against Corruption Act 1988, the report entitled "Investigation into Allegations that an Ausgrid Engineer Corruptly Solicited and Accepted Benefits from Ausgrid Contractors and Subcontractors" dated June 2015, and authorised to be made public this day.

Ordered to be printed on motion by the Hon. John Ajaka.

BUSINESS OF THE HOUSE**Routine of Business**

[During the giving of notices of motions.]

The Hon. Lynda Voltz: Point of order: I ask that the motion of Dr John Kaye be ruled out of order on the issue of comity.

The Hon. Dr Peter Phelps: To the point of order: While comity is an important principle, so is the principle of responsible representative democracy. The honourable member has done the appropriate thing in raising an issue by way of substantive motion. The debate should be held on that substantive motion. If it is found to be inaccurate or incorrect, this House will decide; if it is found to be accurate, then it is a matter worthy of airing.

The Hon. Lynda Voltz: To the point of order: While the member opposite has made a fascinating speech, the reality is that motions have to follow the rules of the House.

Dr John Kaye: To the point of order: The motion calls on an individual, who happens to be a member of another Chamber of Parliament, to undertake certain actions. We regularly call on Ministers to undertake action and we regularly call on members of the public, who are not members of Parliament, to undertake certain actions. We are not seeking to restrict or impede the actions of members of the Legislative Assembly; we are calling on an individual to fulfil a public promise that she made in 2008. That individual happens to be a member of another Chamber.

The PRESIDENT: Order! This is a matter on which I have previously ruled. There is no comity issue in the text of the motion. Comity, however, does arise in certain circumstances but not in this one.

BUSINESS OF THE HOUSE**Postponement of Business**

Government Business Orders of the Day Nos 1 to 4 postponed on motion by the Hon. Duncan Gay and set down as orders of the day for a later hour.

INDEPENDENT PRICING AND REGULATORY TRIBUNAL AMENDMENT (ACCREDITED STATE WATER REGULATOR) BILL 2015

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

LEGAL PROFESSION UNIFORM LAW APPLICATION LEGISLATION AMENDMENT BILL 2015**Second Reading**

The Hon. DAVID CLARKE (Parliamentary Secretary) [11.22 a.m.], on behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

I seek leave to incorporate my second reading speech into *Hansard*.

Leave granted.

I am pleased to introduce the Legal Profession Uniform Law Application Legislation Amendment bill 2015. The bill is the next step in the process of implementing the Uniform Law scheme, which harmonises regulation of the legal profession across New South Wales and Victoria.

The Uniform Law was passed last year by the Victorian Parliament. Our Legal Profession Uniform Law Application Act, also passed last year, applies the Uniform Law as a law of New South Wales. In this way, uniform regulation can be achieved across our two States.

The Uniform Law scheme partially commenced last year with the passage of the Application Act. Regulatory bodies—the Legal Services Council and the Legal Services Commissioner—have been set up to draft new Uniform Rules to sit under the Uniform Law and oversee the transition period.

This transition period is now drawing to a close as the Uniform Law is ready to commence operating. This bill makes technical and transitional amendments to the Application Act to prepare for full commencement, and makes consequential amendments to other legislation to allow for the repeal of the Legal Profession Act 2004.

New South Wales is proud to be a launch partner for this important initiative which will deliver benefits for individual lawyers, law firms and consumers of legal services alike. The Uniform Law aims to simplify and standardise regulatory obligations, cutting red tape for law firms, while still providing for a significant degree of local involvement in the performance of regulatory functions.

It will provide economic benefits for all law firms, big and small, as a result of shorter, less complex legislation. Compliance costs will be reduced, particularly for firms operating across both States.

The Uniform Law Scheme preserves a system of co-regulation, where the profession is involved in critical areas of regulatory responsibility. Under the Uniform Law, the legal profession will have a direct role in formulating the regulatory standards through nominating members of the Legal Services Council and the Admissions Committee.

Consumers will have the same protections, rights and remedies across jurisdictions, as well as access to new low cost and informal ways to resolve service complaints with law practices. The legislative duty on law practices to charge fair and reasonable costs and new, streamlined, costs disclosure requirements will foster better communication and lead to fewer disputes. Also, billing practices will be strengthened to ensure that principals are responsible for the legal costs charged by their law practices.

The Victorian Attorney General and I will continue to encourage other States and Territories to sign on to these reforms so the benefits can be enjoyed on a national basis.

I will now turn to the specific provisions of the bill before this place.

Schedule 1 of the bill makes amendments to the Application Act. Many of these are technical and minor amendments. It makes corrections to the local regulatory authorities that are designated for different purposes. It adds a power for the Admission Board to make rules, including with respect to its student-at-law program, and to delegate some of its functions. It also makes provision for the Law Society Council, Bar Council and the Legal Services Commissioner to delegate their functions to particular individuals and entities. These provisions will ensure that the professional associations will be able to continue to carry out professional discipline and complaints handling functions, under a delegation from the Legal Services Commissioner of New South Wales.

A number of provisions of the Application Act are proposed to be removed where these would duplicate matters that will be covered by the Uniform Rules.

Schedule 1 also provides for a regulation making powers in relation to corporate in-house counsel. The Uniform Law will introduce new practising requirements for government and in-house lawyers. The new provisions for in-house lawyers match provisions already in the Application Act for government lawyers to ensure that appropriate transitional arrangements can be put in place so that they will be able to continue practising on commencement of the uniform law.

The more substantive amendments made by schedule 1 relate to costs assessment processes. The Supreme Court has reviewed the costs assessment process and recommended improvements, a number which adopt proposals recommended by the Chief Justice's review of the costs assessment scheme which was finalised last year.

The amended provisions will align costs assessment processes more closely with old processes, particularly in relation to the assessment of costs ordered by a court or tribunal. The Uniform Law does not include any provision for assessment of these costs. The amended Part 7 clarifies the basis for assessment of these costs. Additionally, the amendments also clarify avenues of appeal from costs assessments and the nature of appeals, which will be by way of rehearing, with new evidence by leave of the court. The amendments make clear that the position of Manager, Costs Assessment is to be filled by a Supreme Court registrar and is an officer of the Supreme Court. This follows the de facto practice of the court in relation to this position.

Schedule 1 also makes provision for a transitional period for solicitors' mortgage practices and managed investment schemes. These will be restricted under the Uniform Law, so the amended Application Act will provide a three year transition window for these practices. Victoria has also applied a three year transitional period for existing managed investment schemes. In this period, the Legal Services Council will engage with the profession to examine the nature of the arrangements that are in place, and to determine how best to regulate such services within the scope of the Uniform Law's restrictions.

Finally, schedule 2 to the bill makes consequential amendments to other legislation. These are necessary to provide for the commencement of the Uniform Law and the repeal of the old Legal Profession Act 2004. The amendments involve replacing references to the old Act with references to the new legislation as appropriate, as well as provisions that ensure that regulatory requirements on lawyers in New South Wales are aligned on the repeal of the Legal Profession Act and Regulation.

Development and staged implementation of the Uniform Law scheme has been a complex process. I acknowledge the significant contributions made by stakeholders in New South Wales, particularly the Bar Association and Law Society, the Office of the Legal Services Commissioner, the Legal Profession Admission Board and the Supreme Court. These organisations have tirelessly devoted significant effort and resources to making these reforms a reality.

I would also like to acknowledge the work of the Legal Services Council and Commissioner for Uniform Legal Services Regulation. They have worked extremely hard over the last few months to ensure that the Uniform Rules, necessary to supplement the Uniform Law, were ready in time for commencement.

Commencement of the new regulatory framework will bring its own challenges. While many aspects of the existing regulatory system will remain, there will be differences. For example, there will be new legislation and rules which practitioners and

regulators will need to become familiar with. Additionally, there will be some differences from existing regulatory requirements. I recognise that it may take some time for the new system to "bed-in". However, I trust that all those involved in the implementation of the new uniform scheme will do their best in navigating through the transitional phases of the uniform scheme.

Given the complexity of these reforms, I note that it may be necessary to bring further amendments before the Parliament in future to address any post-implementation issues that may be identified. Additionally, while this bill includes a number of provisions that adopt recommendations made by the Chief Justice's review of the costs assessment scheme, a number of others remain under consideration, to be progressed at a later time.

This bill represents the final key legislative pieces required to prepare New South Wales for the commencement of the Uniform Legal Profession reforms along with Victoria. These reforms represent a significant step in the regulation of the legal profession, both in New South Wales and in Australia, and the Government is very pleased to have been able to bring them to this point.

I commend the bill to the House.

The Hon. ADAM SEARLE (Leader of the Opposition) [11.23 a.m.]: I lead for the Opposition in debate on the Legal Profession Uniform Law Application Legislation Amendment Bill 2015. The Opposition does not oppose the bill. The object of the bill is to amend the Legal Profession Uniform Law Application Act 2014 so as to allow the commencement of the legal profession uniform law. That uniform law is introduced into this State by the application of the 2014 legislation of the Victorian Parliament. The bill before the House also proposes to amend other legislation consequent on the commencement of the uniform law. It is to come into effect on 1 July this year. When one talks to those in the legal profession involved in the process of developing this uniform law, one is often struck by the sense of exhaustion that is caused by the subject matter. It has taken a great deal of time to get to this point, but this is nonetheless an important and significant piece of work.

In February 2009 the Council of Australian Governments [COAG] brought regulation of the legal profession onto its microeconomic and regulatory reform agenda. This was predated by a national model bill. The 2009 COAG decision commenced with a Federal Labor Government and a State Labor Government in this place. The project has always had bipartisan support. The previous Labor Attorney General was enthusiastic about the process. In 2011 it was clear that Western Australia and South Australia would not be part of the scheme. In 2012 the Queensland Attorney-General announced that Queensland also would not participate. That was merely one of a number of odd decisions made in this policy area by that Government.

New South Wales and Victoria, much as was the case with the uniform evidence Act project, were left as the two remaining participants. Whilst it is only two States, it includes about 70 per cent of all legal practitioners in the country. One would anticipate that the other States will participate in the fullness of time and there is speculation from time to time about one or more of the other non-participants coming into the scheme. The bill establishing the scheme was passed by the Victorian Parliament in March 2014. The New South Wales legislation then followed and applied the scheme to this State. The National Legal Services Board and the National Legal Services Commissioner will be established in New South Wales.

The uniform law will govern matters such as maintaining and auditing trust accounts, practising certificate types and conditions, complaints handling processes, continuing professional development requirements, billing arrangements and professional disciplinary issues. It will establish a common legal services market between the two States. The role of the Law Society and the Office of the Legal Services Commissioner will continue. The Law Society and the Bar Association are enthusiastically supportive of the bill. I note the president of the Law Society, John Eades, stated:

I wish to acknowledge the ongoing support of all political parties in New South Wales over a number of years as we have worked to develop the framework for a common legal services market...

It has been a long road to reform but a necessary one due to the changing nature of legal practice in the context of a national economy and globalisation of legal services. Some have a view that a later start date of 1 September was preferable. The 1 July date was set as the start date some time ago, but I understand that the professional bodies saw the final bill only last week or so. There will inevitably be teething problems in a bill containing the level of complexity as this does, but members of the profession are willing to work through the issues that arise.

The most common criticism of the proposal is that it provides difficulties for smaller practices and sole practitioners. I note that I have received representations on that basis. When the shadow Attorney spoke in support of the 2014 legislation it was said that there were some advantages that will accrue to such practitioners. Several other matters in the bill have been raised and the Shadow Attorney in the other place has sought a

response from the Attorney General. The first issue has been the subject of correspondence between the shadow Attorney and the Attorney General. The shadow Attorney was contacted also about the proposed uniform bar rules to be formulated by the Legal Services Council and the Australian Bar Association.

A significant number of barristers in New South Wales are apparently concerned about proposed rule 15 which defines the work of barristers. There is no reference in the proposed rule to alternative dispute resolution [ADR] being part of the work of barristers, which of course it is and for some it comprises a substantial portion of their practice. However, given the importance of alternative dispute resolution not only to the profession but also to the community as a whole to resolve disputes without court proceedings and having Sydney as a possible seat of international arbitration, it seems odd that there is this omission. The absence of ADR from rule 15 has caused significant concern among a number of practitioners, particularly those at the bar. The Opposition has asked the Attorney General for an assurance that rule 15 will expressly recognise ADR as part of the work of barristers or for some other explicit resolution of that issue.

The second issue relates to schedule 2.45 of the bill. It was not mentioned by the Attorney General in her contribution in the other place and probably not in the contribution of the Parliamentary Secretary here. Those provisions lift the ban on solicitors advertising for workers compensation matters, which means that lawyers can advertise for workers compensation matters in the same way as for any other matter. The ban on advertising for personal injury matters generally was not repeated in the 2014 legislation. One has to be sceptical about the practical impact of this considering the gutting of the workers compensation system, in relation to the availability of claims at all, the quantum when claims are possible and the provisions regarding legal costs. I suspect much of the work currently being done by lawyers in the workers compensation area is being done without financial reward. If that is the case, the issue of advertising will have no practical application.

The change the bill is effecting by removing the reference to lawyers in the relevant sections of the workers compensation regulation of 2010 is one thing, but the reference to agents remains, so that the ban can still apply to them. The 2010 regulation was introduced in response to what were perceived then as abuses. The Opposition has asked the Attorney General for her view about this. If the provisions are passed, will she monitor the situation and take appropriate action if those abuses recur? Finally, the Opposition notes that the bill proposes no change to section 160 of the Legal Profession Act 2014, which prohibits the use of the letters "QC". The Opposition welcomes the position being pursued by the Government. The Opposition does not oppose the bill.

Reverend the Hon. FRED NILE [11.30 a.m.]: The Christian Democratic Party supports the Legal Profession Uniform Law Application Legislation Amendment Bill 2015, which makes amendments to the Legal Profession Uniform Law Application Act 2014. We support the approach adopted by the Commonwealth Government in cooperation with the State governments to implement these intergovernmental agreements. As members know, the procedure involves one or more States initiating the legislation and other States then adopting it. It is then uniform legislation across Australia.

The uniform law scheme was partially commenced on 1 July 2014 to allow for the establishment of the new uniform regulatory bodies and drafting of the legal profession uniform rules. Some amendments need to be made to the Legal Profession Uniform Law Application Act 2014 before its commencement. Consequential amendments to other legislation also need to be made to allow for the repeal of the Legal Profession Act 2004. This bill will enable the uniform legislation to work more effectively. As always, New South Wales is taking the lead.

The PRESIDENT: I take this opportunity to welcome to the Legislative Council public gallery student leaders from New South Wales high schools who are participating in the Secondary School Leadership Program being conducted by the Parliamentary Education Unit of the Department of Parliamentary Services. The Legislative Council is debating changes to the legal profession legislation. I hope your visit to Parliament House is interesting and enjoyable. Thank you for joining us in the Chamber this morning.

Mr DAVID SHOEBRIDGE [11.31 a.m.]: I have been champing at the bit on behalf of The Greens to debate the Legal Profession Uniform Law Application Legislation Amendment Bill 2015. I am glad to have the opportunity to speak to this bill. Previous speakers have indicated how in large part it represents a nationwide attempt to implement uniform regulation of legal practitioners across the country. This legislation has been a long time coming. I remember as a young solicitor being involved in litigation happening in the Supreme Court of New South Wales and the Supreme Court of Western Australia. They were separate actions but closely related.

The Hon. Dr Peter Phelps: You were not working for Gina, were you?

Mr DAVID SHOEBRIDGE: I think I might have been on the other side. Indeed, my client was a union. A large tortious action was being brought against a union because it had stopped a bulk iron ore carrier off the coast of north-western New South Wales. The union was standing up for the rights and entitlements of workers to receive fair wages. While the substance of the case is no doubt fascinating, I found one issue most surprising. I was admitted as a solicitor on the High Court roll and the Supreme Court roll in New South Wales. A directions hearing was being conducted in the Western Australian Supreme Court and at the time legal practitioners were required to obtain the leave of the presiding judge to appear in the court if they had not been admitted on the Western Australian Supreme Court roll, even if they had been admitted on the High Court roll and the Supreme Court roll elsewhere.

I recall seeking the leave of the presiding judge simply to appear and to participate in a directions hearing. For those who have not had the misfortune of participating in a directions hearing, I can assure them that, as a general rule, they deal with very simple matters. Participants set a timetable for affidavits, submissions and notices to produce. The timetable was being set by consent; there was no issue; the parties were not arguing. However, the presiding officer declined the application for leave and insisted on the appearance of a local practitioner who was a member of the local guild.

The Hon. Duncan Gay: Your reputation got around.

Mr DAVID SHOEBRIDGE: As the Leader of the Government said, perhaps my reputation for being long-winded and awkward had preceded me. I doubt it; I was a very young solicitor and I was unknown. My client then had to pay for the briefing of a local solicitor-advocate. Western Australia has a fused bar, so the local practitioner was a barrister. I had to get that barrister up to speed by explaining why the case was being heard and my client had to pay for him to attend. The client was double billed all because we did not have uniform recognition across the country. In my mind that spoke to an obvious failing in the system. Having uniform legal profession regulation providing for mutual recognition across the country is a significant step forward. We have achieved that in large part through ad hoc processes until now; this legislation will formalise it.

I have some concerns about the legislation that I will put on the record on behalf of The Greens. One relates to the requirement for all government and corporate in-house lawyers to obtain a practising certificate. In the past, where solicitors are in the direct employ of a government or a corporation, their only client is that government or corporation and they give advice only to that government or corporation. In that case, the interests of the individual and the interests of their organisation are as one. There has been no requirement for solicitors to have practising certificates in all circumstances because the interests of the employee and the organisation to whom they are providing advice are ad idem—entirely as of one. No benefit would be gained from the organisation suing the employee for a failure to give adequate legal advice, and there would be no issue about cost disclosures, bills or billing. There would be no requirement to use oversight machinery to deal with costs, requirements for disclosure and the like, given that the parties' interests are the same. The lawyer and their client and the employer are all the same.

However, this bill introduces an across-the-board requirement for corporate and government solicitors to have a practising certificate. Who will benefit? The Law Society will probably get additional fees for issuing practising certificates, and no doubt the industry that provides legal education and continuing legal education points will benefit. Will the Government benefit from having to pay for practising certificates for in-house lawyers? I do not think so. Will companies benefit from having to pay for practising certificates for their solicitors? I do not think so. I have not seen the rationale for this additional requirement. This Government normally is not interested in pointless red tape and bureaucracy. The law is already full of red tape and bureaucracy, yet this additional—

The Hon. Paul Green: Not enough green tape.

Mr DAVID SHOEBRIDGE: Not enough green tape. I have yet to have the Government explain to me the benefit of requiring practising certificates for government and in-house corporate solicitors as has been proposed.

The Hon. Dr Peter Phelps: Professional development maybe?

Mr DAVID SHOEBRIDGE: The Government could readily achieve the goal of professional development by simply making continuing professional development and continuing legal education

requirements for anyone in that role without the obligation of obtaining a practising certificate. I would support a scheme requiring continuing education without requiring the fees, processing, forms and oversight associated with a practising certificate.

The Hon. Trevor Khan: You do it online now, David. Just fill in a couple of boxes. It is easy.

The PRESIDENT: Order! While interjections during debate can sometimes assist debate and tease out material that can be of benefit to the Chamber in considering legislation, interjections that are designed to put a speaker off are disorderly and are to be discouraged. The member should be heard in silence.

Mr DAVID SHOEBRIDGE: I asked the Attorney's office for an explanation and I am grateful an explanation was provided as it sheds some light. The Government has said that transitional arrangements will be included in a regulation to be made following the passage of the Legal Profession Uniform Law Application Legislation Amendment Bill 2015, which will occur before 1 July 2015. This is the explanation for what will be operative for government and corporate lawyers: government and corporate in-house lawyers who are already admitted but do not hold a practising certificate will have two years from commencement to obtain a practising certificate and they will need to notify the Law Society within six months that they are practising pursuant to this exemption.

I hope there is a wonderful outreach scheme to identify these people and to tell them to notify the Law Society, but apparently that is the arrangement. Corporate in-house lawyers who are not admitted will have three years from commencement to get admitted and they will need to notify the admission board within 12 months that they are practising pursuant to the exemption. Government lawyers who commence work after 1 July 2015 and who are not admitted will have three years from commencement to get admitted and they will need to notify the admission board within 12 months that they are practising pursuant to the exemption.

Government lawyers who have been working as such in the 12 months prior to commencement and who are not admitted will have a permanent exemption from legal practice requirements while they continue to work as a government lawyer. I find that structure confusing, the rationale behind it opaque and the classes arbitrary. Apart from that, I understand exactly why that arrangement is in place. I think it will create confusion and it will be difficult to notify all those corporate and government lawyers about their obligations. I do not see the public purpose in requiring those lawyers to have practising certificates.

Another issue in this bill is the changes in the Workers Compensation Regulation 2010, which have been snuck in at page 39 in items [1] to [15]. These items relate to the advertising of legal services for work injury and workers compensation matters. In large part the Government has sought to avoid the problem of lawyers advertising for workers compensation matters by statutorily prohibiting lawyers from charging to provide the service to injured workers. This was an appalling amendment attached to the workers compensation reforms that went through this House in 2012. Lawyers can provide a range of services to injured workers to ensure that their legal rights are protected under the Workers Compensation Act. Lawyers also can provide legal services to injured workers to run common law claims, called work injury damages claims.

Prior to the 2010 amendments to the Workers Compensation Regulation there were constant advertisements on radio and online for lawyers seeking workers compensation work. Talkback radio bombarded listeners with advertisements for law firm A, B or C trying to drum up work in the workers compensation system. Those advertisements did not seem to add much value by informing people about their rights and many people were concerned about them. Some of the firms had good reputations and some of them had extraordinarily mixed reputations, to be polite. The Workers Compensation Regulation 2010 was passed and it prohibited advertising by legal firms or lawyers for workers compensation or work injury damages matters. It would be wrong to say that that fixed the matter as a number of firms continue to advertise, seemingly in blatant disregard for the law that prohibits them from doing so.

On the whole there has been a significant reduction in advertising for workers compensation and work injury damages matters. Yet as I read the proposed amendments, the restriction is being removed. Any reference to the prohibition of advertising by lawyers or legal services contained in clauses 79 and onwards of the Workers Compensation Regulation has been removed. I have not seen that explained in the Minister's second reading speech; perhaps I missed it in what was not the most inspiring second reading speech. I think it would be a retrograde step to remove the restrictions on advertising of legal services as airwaves and online channels will be opened to an unedifying spectacle of ambulance chasing by workers compensation lawyers. The Greens have circulated some amendments to remove those changes when the matter gets to the Committee stage, which is when I will speak on them further.

With those concerns, The Greens support the overall thrust of the bill. We have concerns about what is happening to practising certificates although we will not seek to move amendments relating to these concerns but rather will ask for an explanation from the Government. We have substantive concerns about advertising legal services and would be grateful for an explanation from the Government about the intent of that proposal. Perhaps we have missed some provision that deals with our concerns elsewhere.

The Hon. DAVID CLARKE (Parliamentary Secretary) [11.48 a.m.], on behalf of the Hon. John Ajaka, in reply: I thank members for their contributions to debate on the Legal Profession Uniform Law Application Legislation Amendment Bill 2015. The passage of this bill will result in amendments to the Legal Profession Uniform Law Application Act and other consequential amendments to ensure that New South Wales is properly prepared for the commencement of the uniform law. The Government welcomes the recent statement by the Legal Services Commissioner of New South Wales that he would be taking a common-sense approach to the enforcement of any new or different regulatory requirements. The profession should be assured that while these reforms will bring changes, those changes will bring benefits to the profession and to the economy more generally.

The original goal of the National Legal Profession Reform project was to create a truly national legal profession. The Government takes this opportunity again to strongly encourage the Attorneys General of the other States and Territories to follow Victoria and New South Wales in adopting the uniform law so that the goal of a nationally and uniformly regulated profession can be achieved. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

The CHAIR (The Hon. Trevor Khan): If there is no objection, the Committee will deal with the bill as a whole.

Mr DAVID SHOEBRIDGE [11.51 a.m.]: I move The Greens amendment No. 1 on sheet C2015-017:

No. 1 Advertisement of work injury legal services

Pages 39 and 40, schedule 2.45, line 35 on page 39 to line 31 on page 40. Omit all words on those lines.

Effectively, this amendment will delete items [1] to [15] in schedule 2.45 relating to the Workers Compensation Regulation 2010. As I said in the second reading debate, in 2010 the then Labor Government, I believe quite rightly, formed the view that there was excessive advertising in this area—I used the term "ambulance chasers". There was literally a barrage of advertisements from lawyers promoting the provision of legal services for workers compensation clients, primarily, but also for common law claims from workers who have been injured at work. The barrage of advertisements was an unedifying spectacle.

At the time there was some angst in the profession when the Labor Government moved to prohibit that advertising. I believe there was a legal constitutional challenge alleging that it was an infringement of the implied restraint on governments to restrict free speech under the Constitution and, I think from memory, that challenge found its way to the High Court. The case was defended by the State Government and the challenge was defeated; it was found that there was a good public purpose for the restraint and the restraint was defended. Regulation 79 of the Workers Compensation Regulation 2010 provides:

A lawyer or agent must not publish or cause or permit to be published an advertisement that promotes the availability or use of a lawyer or agent to provide legal services or agent services if the advertisement includes any reference to or depiction of any of the following:

- (a) work injury,
- (b) any circumstance in which work injury might occur, or any activity, event or circumstance that suggest or could suggest the possibility of work injury, or any connection to or association with work injury or a cause of work injury or a work injury,
- (c) a "work injury service" (that is, any service provided by a lawyer or agent that relates to recovery of money, or any entitlement to recover money, in respect of work injury).

Maximum penalty: 200 penalty units.

Some law firms, seemingly in defiance of that current restriction, continue to engage in advertising. When I see those advertisements I wonder why those law firms are not being brought to book for that, why the advertisements are not subject to formal complaints for professional misconduct and why the regulation is not being enforced.

Nevertheless, the level of advertising has been greatly reduced, and that is a good thing. In large part, I believe that legal services should be advertised on the basis of reputation and by word of mouth from people who know they have had a competent lawyer act for them. Competence should be the single, best advertisement for a lawyer or a law firm, not a barrage of radio advertisements. The amendment proposed by this bill would remove any reference to "lawyer". In clause 79 the bill seeks to omit wherever it occurs "a lawyer or agent" and to insert instead "an agent". As I have said, I have not heard an explanation from the Government as to why this is a good thing to do.

The Hon. Duncan Gay: Give us a chance.

Mr DAVID SHOEBRIDGE: I did give the Minister an opportunity during the second reading debate. Is there another way in which this restriction is intended to be imposed? Is a provision proposed to be taken out of the Workers Compensation Regulation and put into the Legal Profession Regulation, or does the Government think that open-slasher advertising will be a public policy step forward? Without that explanation The Greens believe that their proposed amendment is important and hope for the support of the Chamber.

The Hon. DAVID CLARKE (Parliamentary Secretary) [11.56 a.m.]: The Government does not support this amendment moved by The Greens. The driving force of these reforms is uniformity of regulation of the legal profession. Victoria does not currently restrict advertising for personal injury or workers compensation legal services in the way that we do in New South Wales. The current New South Wales regulations restricting legal advertising will be repealed upon the full commencement of the scheme. State and Territory borders are highly permeable to the cross-border transmission of information in this era of social and other electronic media.

The Productivity Commission recommended in its "Access to Justice" report that where they have not done so already, State and Territory governments should remove all bans on advertising for legal services. Protections under the Australian Consumer Law would continue to apply. Additionally, the Uniform Law Australian Solicitors Conduct Rules require solicitors and principals of law practices to ensure that advertising, marketing or promotion in connection with a solicitor or law practice is not false, misleading or deceptive, or likely to mislead or deceive, and is not offensive or prohibited by law. As the Attorney General indicated yesterday in the other place, she will ask the Legal Services Council to monitor the impact of lifting the ban on the profession and on consumers.

Mr DAVID SHOEBRIDGE [11.58 a.m.]: It appears that the only reason that has been advanced by the Government for opposing The Greens amendment is so that we have uniformity with Victoria. If that is the best reason, it is a particularly poor reason to go down this path. Let us be clear: If this becomes the stated law in New South Wales we will again be seeing a barrage of advertisements. It is almost a certainty that that will follow as a result of the removal of the restriction—it will probably pre-empt it. As soon as lawyers and law firms realise that the policy has been set we will probably start seeing advertisements as soon as the bill goes through the House—even before it has been formally gazetted on 1 July.

If you go to the website of a law firm that does some workers compensation work and click on the workers compensation link, a screen will pop up and ask whether you are in New South Wales or elsewhere in Australia. If you click that you are in New South Wales, you will receive different information because of the restrictions. If you click that you are somewhere other than in New South Wales, you will get a screed encouraging you to bring a workers compensation claim. The profession has found a way of dealing with the situation, consistent with the law. It is not an impossibility. The fact that the Productivity Commission thinks "Let a hundred flowers grow regardless of the public policy outcomes" because it has a market-driven ideology that we must have exactly the same pro-competition approach around the country—regardless of the impact on the ground—is not a good answer.

The Productivity Commission has its view. It approaches the issue from a pure market perspective: You remove every restraint to competition and have a completely free market. The Productivity Commission believes—looking through its narrow lens—that will produce nirvana for society. Governments have an obligation, particularly when it comes to the regulation of legal services, to go beyond the bare market-driven purity of the Productivity Commission and work out whether it will be a good thing in practice. This will not be a good thing in practice. This will again lead to a barrage of advertisements. This will again lead to the unedifying spectacle of lawyers continuously touting for business on the airwaves in relation to workers compensation and work injury damages. The previous Labor Government stared down the legal profession at

the time; it did the right thing and introduced the restraint. It then defended its actions when challenged. But this Government is supinely rolling over and having its belly tickled because that is what they do in Victoria. It is bad public policy and bad reasoning. I commend the amendment to the Committee.

The Hon. ADAM SEARLE (Leader of the Opposition) [12.01 p.m.]: I might be personally sympathetic to the thrust of the amendment.

The Hon. Dr Peter Phelps: Do you have to declare a conflict of interest?

The Hon. ADAM SEARLE: No. I have no interest to declare. The fact is that this amendment, if passed, will have almost no practical impact. As a result of the draconian measures implemented by the Parliament in 2012, there are almost no claims made in this State. The Attorney General has given an undertaking to monitor what the experience is in light of the legislation, and particularly to monitor any reported complaints. If the public policy concerns that gave rise to the legislative prohibition in the first place occur again, I will expect a responsible government to act. However, the amendment is unnecessary at this time.

Mr DAVID SHOEBRIDGE [12.02 p.m.]: I note and appreciate the contribution from the Hon. Adam Searle but unfortunately it is not accurate in terms of the scope of the current restriction. The current restriction does not just apply to the, admittedly, large class of workers compensation claims that are caught up in the work capacity assessment mincing machine that has been put into the Workers Compensation Act, which prevents workers from accessing legal services when they are contesting a work capacity assessment claim. A large number of workers compensation claims are subject to that work capacity assessment mincing process and lawyers are prohibited from being remunerated for assisting injured workers in those circumstances. This is a grossly unfair arrangement. I think New South Wales is the only jurisdiction on the planet that prohibits injured workers from getting legal assistance to contest their claims against insurance companies.

The Hon. Dr Peter Phelps: Point of order: Mr David Shoebridge is now straying well beyond the leave of the amendment before the Committee.

The CHAIR (The Hon. Trevor Khan): Order! I uphold the point of order. It is a well-established practice in this place that members should speak to amendments in Committee, not deliver a second reading speech. Mr David Shoebridge is straying well beyond the leave of the amendment.

Mr DAVID SHOEBRIDGE: The amendment will not have an impact in relation to those work capacity assessment matters because lawyers are already legally prohibited from providing those services, so they are not advertising them. But there is another class of claims in relation to workers compensation matters regarding liability, the question of injury and other legal issues that are contested between injured workers, WorkCover and insurers and that go to the Workers Compensation Commission and for which remuneration is still payable to lawyers. Admittedly, the class is smaller than it was in 2010 but it is still a significant class of legal service.

Probably more fundamentally, legal services are provided in relation to work injury damages involving the statutorily modified tortious claims that injured workers make when they allege the employer has been negligent and the negligence has caused their injury and loss. That class of claims is the most economically lucrative for lawyers—and it is also often the most economically beneficial for injured workers, I might add. It is that class of claims for which we will almost certainly hear advertisements from lawyers seeking work as soon as the restraint is lifted. Because they do it badly in Victoria does not mean we should do it badly in New South Wales. The public policy reasons that led the former Labor Government to make these changes—it did a lot wrong but this was a good public policy outcome in 2010—remain. The fact that the Attorney General is going to keep half an eye open to see whether the inevitable happens is not a good reason for allowing the inevitable to happen. I commend the amendment to the Committee.

Question—That The Greens amendment No. 1 [C2015-017] be agreed to—put.

The Committee divided.

Ayes, 5

Mr Buckingham
Dr Faruqi
Dr Kaye

Tellers,
Ms Barham
Mr Shoebridge

Noes, 30

Mr Ajaka	Mr Franklin	Mr Primrose
Mr Amato	Mr Gallacher	Mr Searle
Mr Blair	Mr Gay	Mr Secord
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mrs Houssos	Mr Veitch
Mr Clarke	Mr MacDonald	Ms Voltz
Mr Colless	Mrs Maclaren-Jones	
Ms Cotsis	Mr Mallard	
Ms Cusack	Mrs Mitchell	<i>Tellers,</i>
Mr Donnelly	Mr Mookhey	Mr Moselmane
Mr Farlow	Reverend Nile	Dr Phelps

Question resolved in the negative.

The Greens amendment No. 1 [C2015-017] negatived.

Title agreed to.

Question—That this bill as read be agreed to—put and resolved in the affirmative.

Bill as read agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. David Clarke, on behalf of the Hon. John Ajaka, agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. David Clarke, on behalf of the Hon. John Ajaka, agreed to:

That this bill be now read a third time.

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

ELECTRICITY NETWORK ASSETS (AUTHORISED TRANSACTIONS) BILL 2015**ELECTRICITY RETAINED INTEREST CORPORATIONS BILL 2015****In Committee**

The CHAIR (The Hon. Trevor Khan): Order! The amendments relate to the Electricity Network Assets (Authorised Transactions) Bill 2015, so we will deal with it first. If there is no objection, the Committee will deal with the bill as a whole.

The Hon. ADAM SEARLE (Leader of the Opposition) [12.23 p.m.]: I move Opposition amendment No. 1 on sheet C2015-010H:

No. 1 **Authorisation for transfer of electricity network assets**

Page 4. Clause 5 (1). Insert after line 6:

- (b) there must be no provision for any payment by the lessor of network infrastructure assets to the lessee on expiry of the lease,

The amendment arises from the lack of clarity provided for in the legislation and, it must be said, the evidence of the Treasurer and Treasury officials to the select committee. During the Queensland election campaign there was some controversy around the privatisation proposal in that State regarding whether, at the expiry of any lease, the assets would simply revert to public control or whether the public purse—the community, the consumers and taxpayers—would have to pay a premium in order to reclaim the assets they own. The Government—the doomed Liberal National Party Government in that State—had to concede that in fact the State might have to cough up large in order to see the return of what was said to be the people's assets that had been merely leased, not sold. Of course, a similar situation applies in South Australia as a result of the disastrous lease embarked upon by the also doomed Olsen Liberal Government in that State.

In order to try to put this matter to bed, I submitted questions on notice asking the Treasurer about the situation in connection with these transactions. The answer came back, "The terms of the leases are being developed and it is a matter for each transaction". That simply says it is a live possibility that, in the lease or in the wider set of transaction documents and before the lease is entered into, there may be a risk that is unknown to the public. The Government has been at pains to tell us that the public will retain ownership of these assets and that they will merely be leased. However, the risk is that the public will be required to pay money at the expiry of the lease. That leads to me to clause 5 (1) (b) on page 4 of the bill, which—alarmingly—refers to an "initial term of a lease" of network infrastructure. At the end of the clause it says, "(without limiting any option to renew ...)".

One can envisage a situation where at the end of the lease there is a double whammy: If you want your assets back, public of New South Wales, you will have to cough up large or you can simply allow the lease to be renewed by whoever is operating it at the time—of course, for no extra money. That is a real risk. Let us put that to bed; let us say it cannot happen and that, whatever the terms of the lease are, they are the terms but only for 99 years and if there is to be a second round of leasing then a separate transaction will be dealt with at that time, separately and on its own merits. I have not moved my amendments in globo because, although related, they address two separate and distinct issues. We say there must be no provision for any payment by the public of this State in order to get their assets back at the expiry of the lease. It is not an outrageous proposition. We think it is common sense because, if there is a plan to sting the public and make them pay more at the end of the lease, the Government should come clean about it. It should be in the public domain before the leases are entered into.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [12.27 p.m.]: The Government opposes the amendment. I am amused that those opposite think somehow the Government of today has a sneaky plan that, in 99 years time, the government of the day will have some leeway. I think they have been in a place they should not go. This is a matter for the government of the day 99 years from now. It is important to ensure that an incentive remains in place to enable continued investment by the lessee in the network, and this amendment would impact negatively on that ability.

The Hon. ROBERT BROWN [12.28 p.m.]: The sentiments expressed by the Hon. Adam Searle are valid but, unfortunately, I must agree with the Leader of the Government: Trying to legislate in 2015 for events that may or may not happen in 99 years is a little spurious. The Shooters and Fishers Party will not support the amendment. So that I do not have to keep jumping up to speak on every amendment, I foreshadow that we have decided to support the amendments circulated by Reverend the Hon. Fred Nile as they offer probably the best deal that the various parties are going to get—and by "parties" I do not mean the Government or the prospective buyers, I mean the employees of those concerns.

I would not mock the Leader of the Opposition for putting forward an amendment like this, because as I say, the intention is quite clear—it is to protect the people of New South Wales into the future. But that future is so far away, we almost get back into the argument of whether a 99-year lease is really a lease. It is probably something that could never be promised to be delivered because we are going to have 99 divided by four parliaments between then and now. As much as I would like to, we will not be supporting the Opposition.

Dr JOHN KAYE [12.29 p.m.]: For almost the identical reasons offered by the Hon. Robert Brown, I support this amendment. It is interesting how you can take the same reasons and put them the other way around. This amendment goes to a matter which is symbolically important. It goes to the issue of this being a lease and not a transaction that is by way of a sale. The Government has made a lot of the issue of it being a lease. I cannot count the number of times the Treasurer, former Treasurer or the Premier has played the card that I am wrong in my public announcements on this because it is not privatisation, it is a lease. In fact, anyone who watched the Queensland election would have seen in great detail the debate about whether a lease is a privatisation or not.

The problem with the absence of an undertaking such as that being sought by the Labor Party's amendment No. 1 is that it undermines the symbolic continued ownership of the assets. To be absolutely clear: the assets will, in reality, no longer be owned by the people of New South Wales. This purely protects the symbolic aspects of that. To that extent it is worth supporting. The Hon. Robert Brown says this is an act that will occur in 99 years therefore we cannot regulate it. If that were true, if that were an acceptable argument, then we should stop any consideration of this legislation immediately because this is legislation that will have a 99-year impact. This is legislation which will continue to have clauses in force all the way through to the year 2114 when the lease expires. What this affects is not what happens in 2114 but what happens in 2015, right now, in terms of the kinds of leases that can be signed by the Government. The effect of this amendment would restrict the Government from signing a lease that allowed for a transfer payment back from the public in 99 years.

I have to admit the net present value of something in 99 years is probably fairly small at any reasonable discount rate, but nonetheless there is a symbolic issue here. If the Government is genuine about saying this is a lease and not ownership being transferred, it should support this amendment. If the Government is genuine about not signing a lease that contains a payment at the end of the expiry of the lease, it should support this amendment. One can only presume by its opposition to this amendment that the Government intends to fatten up the lease price by passing a cost off for 99 years. I commend the amendment to the House.

The Hon. ADAM SEARLE (Leader of the Opposition) [12.33 p.m.]: I thank the Leader of the Government for making the Government's position so clear, because this really does go to the heart of the matter. The evidence the select committee heard was that for all practical purposes, legal or economic, a 99-year lease is a sale. This really was just the last, as it were, nail in the coffin. If it is really a lease, there will be no payment for it to come back into public control, but if the possibility is being kept alive that the public of this State, albeit at a remove in time, will have to pay for the benefit of taking their assets back into their control, then it really is a sale and not a lease. This is the opportunity for this Parliament to draw a line in the sand and ask with clarity: Is this a lease or is this a sale? I get the mood of the Chamber. It seems that this amendment will not be carried and therefore with clarity you are all selling our collective assets, not leasing them.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) [12.34 p.m.]: I am not going to be coming back all the time on this but those comments warrant comment. This is something that is happening in 99 years. We acknowledge that we want this to come back into public ownership and that is what is going to happen, but to attribute ideas and views to us now on something that is happening in 99 years is our problem and that is where we have a disagreement with the Opposition, not that we do not believe this will come back into public ownership. That is why we are putting what we believe is a better process in place for 99 years than they are.

The Hon. ADAM SEARLE (Leader of the Opposition) [12.35 p.m.]: As is the wont of the Government in this transaction proposal, they are trying to obscure the reality. This is not about what is going to happen in 99 years; this is about what is happening now—the nature of the transaction the Government is asking this Parliament to authorise. I go back to the terms of the bill, clause 5 (1) (b): the "initial term of the lease"—not the term of the lease, but the initial term. There is a clear foreshadowing that these assets will never come back, and this is just an effort by the Opposition to really make clear if the nature of this transaction is a lease or a sale. What is happening here and now in this Chamber?

Reverend the Hon. FRED NILE [12.36 p.m.]: I believe the legislation is absolutely clear and states that "the network infrastructure assets cannot be transferred to the private sector except by lease with an initial term not exceeding 99 years." This is a statement in the legislation itself. I think the Leader of the Opposition is jumping at shadows.

Dr JOHN KAYE [12.37 p.m.]: The word "lease" is just a word, but the intent of the lease is much more detailed and what Reverend the Hon. Fred Nile fails to recognise is if there is a payment at the end of the lease that needs to be made, we have surrendered control over part of the network. You can call it a lease but in reality, symbolically—

Reverend the Hon. Fred Nile: Who said there is going to be a payment?

Dr JOHN KAYE: It is a transfer. With due respect, Reverend the Hon. Fred Nile asks who says there is going to be a payment—

The CHAIR (The Hon. Trevor Khan): Order! I invite Dr John Kaye to address his questions through the Chair and to not respond to interjections.

Dr JOHN KAYE: With all due respect to the Leader of the Government, he says this is about something that is going to happen in 99 years. I invite him to read again the amendment and the clause which it seeks to amend. This is about something which his Government will undertake. It is about what can or cannot be in a document around the lease. It is very much about what happens today. It is very much about the issue of how much of the ownership of this network is being surrendered.

Question—That Opposition amendment No. 1 [C2015-010H] be agreed to—put.

The Committee divided.

Ayes, 16

Ms Barham	Mr Mookhey	Mr Veitch
Mr Buckingham	Mr Pearson	Ms Voltz
Ms Cotsis	Mr Primrose	
Dr Faruqi	Mr Searle	<i>Tellers,</i>
Mrs Houssos	Mr Secord	Mr Donnelly
Dr Kaye	Mr Shoebridge	Mr Moselmane

Noes, 21

Mr Ajaka	Mr Gallacher	Reverend Nile
Mr Amato	Mr Gay	Mr Pearce
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mr Harwin	
Mr Clarke	Mr MacDonald	
Mr Colless	Mrs Maclaren-Jones	<i>Tellers,</i>
Ms Cusack	Mr Mallard	Mr Franklin
Mr Farlow	Mrs Mitchell	Dr Phelps

Pairs

Ms Sharpe	Mr Blair
Mr Wong	Mr Mason-Cox

Question resolved in the negative.

Opposition amendment No. 1 [C2015-010H] negatived.

The Hon. ADAM SEARLE (Leader of the Opposition) [12.46 p.m.]: I move Opposition amendment No. 2 on sheet C2015-010H:

No. 2 Authorisation for transfer of electricity network assets

Page 4. Clause 5 (1). Insert after line 9:

- (c) any option to renew a lease of network infrastructure assets to the private sector is subject to the following requirements:
 - (i) there must be fresh consideration for the renewal of the lease,
 - (ii) the Treasurer must make details of any proposed renewal publicly available at least 3 months before the renewal of the lease.

This amendment relates to the second part of the argument that I foreshadowed when speaking to the previous amendment. It provides that the renewal of a lease must be the subject of fresh consideration. I have made the argument in support of the amendment, so I will not rehash it. This goes to the issue of transparency and the fact that if these assets are to be alienated continually from public control there should be a fresh transaction and fresh consideration of each lease.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [12.47 p.m.]: The Government opposes this amendment. It is important that the then Government retain flexibility at the end of the lease so that it can act in the interests of the taxpayers and the State. The bill provides that it will be at the discretion of the then Government to take back those assets.

Dr JOHN KAYE [12.48 p.m.]: The Greens support this amendment. The mover can correct me if I am wrong, but my understanding is that it has two applications, one of which will be relevant in 99 years. The other relates to the situation where the lease of an asset falls over—that is, it is cancelled, the lessee pulls out, or it contains a clause that causes it to become void. As I understand it, the legislation would then trigger the application of subparagraphs (i) and (ii). The provisions in this amendment are not particularly onerous; they simply require fresh consideration, and it need not be undertaken by Parliament. It provides that there must be some consideration so that renewal is not automatic. Subparagraph (ii) provides that the Treasurer must make details of the proposed renewal publicly available at least three months before it occurs.

The Treasurer in the negotiation process needs to identify the chosen group and inform the public about what has been decided. It triggers public consultation but does not in any way prevent the Government from concluding a new lease. I think the Leader of the Government suggested that if this were to become part of the Act it would prevent the Government from renewing a lease. Nothing in this amendment stops the Government from renewing a lease; it simply triggers the requirement that it cannot be automatic and that the Treasurer must make the details publicly available at least three months beforehand to allow for debate. It is not an excessively onerous provision but it at least ensures this legislation will not operate effectively in perpetuity. It triggers the requirement for some public consultation before a leaseholder is changed.

The Hon. ADAM SEARLE (Leader of the Opposition) [12.50 p.m.]: For clarity, this clause will only operate on the renewal of a lease—that is, it will only apply on the expiry of a lease, whatever lease term is entered into in whatever transaction. Dr Kaye is right that this amendment goes to the vexed issue of whether this legislation covers what is truly a lease or really a sale. If it is really a sale then the renewal is merely a matter of form rather than a reality, by consideration of money passing between parties. If this is really a lease and not a sale then this provision will be adopted by this Chamber because it will mean that at the expiry of the lease term entered into by the Government essentially the Government will have to negotiate a further lease rather than taking the assets back into public control.

Dr JOHN KAYE [12.51 p.m.]: I thank the Leader of the Opposition for correcting me. Having read the amendment again I see it says "option to renew" and "fresh consideration". I should have taken the lawyer's view of "consideration" and now I understand it has a different meaning to the one I raised before. This says that when the lease expires it cannot be renewed unless there is a fresh transfer of funds for that renewal and the Treasurer must make details publicly available. That is a different interpretation, and I accept that it is the correct interpretation. Nonetheless, The Greens support this amendment because it goes more deeply to whether this is a lease or a sale. If there are terms in the lease that allow for renewal with additional payment but without the details of the intention to renew and the renewal being made publicly available then this would be seen more as a sale and less as a lease than previously thought. I commend the amendment to the House.

Question—That Opposition amendment No. 2 [C2015-010H] be agreed to—put.

The Committee divided.

Ayes, 16

Ms Barham	Mr Mookhey	Mr Veitch
Mr Buckingham	Mr Pearson	Ms Voltz
Ms Cotsis	Mr Primrose	
Dr Faruqi	Mr Searle	<i>Tellers,</i>
Mrs Houssos	Mr Secord	Mr Donnelly
Dr Kaye	Mr Shoebridge	Mr Moselmane

Noes, 21

Mr Ajaka	Mr Gallacher	Reverend Nile
Mr Amato	Mr Gay	Mr Pearce
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mr Harwin	
Mr Clarke	Mr MacDonald	
Mr Colless	Mrs Maclaren-Jones	<i>Tellers,</i>
Ms Cusack	Mr Mallard	Mr Franklin
Mr Farlow	Mrs Mitchell	Dr Phelps

Pairs

Ms Sharpe
Mr Wong

Mr Blair
Mr Mason-Cox

Question resolved in the negative.

Opposition amendment No. 2 [C2015-010H] negatived.

[The Chair (The Hon. Trevor Khan) left the chair at 1.00 p.m. The House resumed at 2.30 p.m.]

Pursuant to sessional orders business interrupted at 2.30 p.m. for questions.

Progress reported from Committee and consideration set down as an order of the day for a later hour.

QUESTIONS WITHOUT NOTICE

HOME CARE SERVICE

The Hon. ADAM SEARLE: My question is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. In light of Bupa facilities such as the Ballina aged care facility being placed into lockdown for three weeks following a gastroenteritis outbreak, will the Minister give an undertaking that Bupa will meet all health and safety standards before it is invited to participate in the final bidding phase in the privatisation of the Home Care Service?

The Hon. JOHN AJAKA: I do not know who is currently in the final stages of bidding for the Home Care Service. I have made it very clear that I am not advised of who has indicated an expression of interest and who is selected from those expressions of interest. This is why this Government has a proper process: to ensure the successful applicant to whom the Home Care Service is transitioned is the right and appropriate applicant for all clients of the service. The Government will ensure that the best interests of the clients of the Home Care Service are maintained.

The PRESIDENT: Order! There is too much audible conversation in the Chamber. The Minister has the call.

The Hon. JOHN AJAKA: Those opposite should stop this negative campaign against the Home Care Service and its workers, who the Government will ensure get the best deal.

The PRESIDENT: Order! Members have been warned once. They will not be warned again. The Minister has the call.

The Hon. JOHN AJAKA: The New South Wales Government recognises the vital role that the Home Care Service of NSW plays in the provision of in-home support to older people, people with disabilities and their carers who need assistance with daily living. In order to protect quality services for disabled and aged clients, to keep the Home Care Service as a whole—including Aboriginal Home Care—and to give its staff the best long-term job prospects, we will move to select the provider for the Home Care Service, as I have indicated before, from the middle of 2015.

We are doing this so that we can better support how aged and disability care will be delivered in the future in New South Wales with the introduction of the National Disability Insurance Scheme and the Commonwealth Government's aged care reform. The transfer process for the Home Care Service will be an open, competitive tender, as I have indicated, conducted under strict confidentiality and probity arrangements. Decisions through the transfer process will be based on a number of considerations, including the quality of services being maintained, continuity of support to clients and the ability to transition the workforce to the new provider.

Last November the New South Wales Government introduced Working Together, a comprehensive strategy to support staff through the aged care and disability sector reforms. The Working Together strategy

aims to provide practical tools and resources to inform and support staff in times of significant change, and engage with staff and empower them to explore opportunities for their future careers through the aged care and disability sector reforms. Recently I joined one of our Home Care Service workers in Maroubra to walk a day in her shoes as part of the United Voice "Walk in My Shoes" campaign. I witnessed firsthand the amazing work of our Home Care Service workers and the great job they do in assisting their clients.

In January this year the New South Wales Government invited interested parties to lodge an expression of interest to acquire the Home Care Service by 24 February 2015. The next step will be for some of those parties to be invited to a final bidding phase. This process will allow the New South Wales Government to ultimately identify the most suitable party to operate the Home Care Service in the future. As I have said before, I recognise that our Home Care Service workers do an extraordinary job and I am committed to ensuring that both clients and staff experience a smooth transition during the transfer of the service.

The Hon. ADAM SEARLE: I ask a supplementary question. Will the Minister elucidate his answer with respect to whether he was aware that the Bupa aged care home at Ballina has been in lockdown for the past three weeks?

The Hon. JOHN AJAKA: I rely on my answer to the initial question, which made it very clear as to the priorities of the Home Care Service and what is being undertaken by this Government.

BRIDGES FOR THE BUSH

The Hon. BEN FRANKLIN: My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on work the New South Wales Government is undertaking as part of the Bridges for the Bush program?

The Hon. DUNCAN GAY: I thank the Hon. Ben Franklin for his question. I know he is bridging the divide at the moment, as he moves from one area of the State to another. The New South Wales Government is committed to delivering the \$210 million Bridges for the Bush program, and to improving road and freight productivity across regional New South Wales. The program includes projects such as building new bridges at Kapooka, Wee Waa and Gunnedah, and upgrading a bridge at Bemboka near Bega. The program will benefit more than 16 rural communities across New South Wales by removing a number of significant freight pinch points and by improving road safety.

This program is replacing and upgrading five priority bridges on State-owned roads to enable them to carry higher mass limit [HML] vehicles. That is good work. It is estimated that by replacing or upgrading the five HML deficient bridges alone we will remove 8,000 heavy vehicle trips from our roads each year. The Opposition should support this program. We are saving the State more than \$200 million in economic, social and environmental costs over the next 30 years. Where were The Greens when this was happening? Why were they not encouraging us to build more bridges? What hypocrites.

The Hon. Walt Secord: I love bridges.

The Hon. DUNCAN GAY: The Hon. Walt Secord loves bridges. It must have been a shame for him when Labor was in government because it did not build any. We are building a new Kapooka Bridge on the Olympic Highway, which is almost half complete, and a new Bemboka River Bridge on the Snowy Mountains Highway, with major works having started this year. I hear the Hon. Bronnie Taylor from Nimmitabel talking about that. We are constructing the replacement of the Tulladunna Bridge over the Namoi River, which will be 50 per cent complete by the end of this month. We have already completed four of the 17 projects under this program and are on track to have more completed by 2017.

We have achieved a number of construction milestones, including completing the upgrade of the timber truss Carrathool Bridge across the Murrumbidgee River to provide motorists with a stronger bridge; completing the replacement of the timber truss bridge over Crookwell River at James Park with a three-span, 39.3 metre plank concrete bridge; and completing the replacement of the timber truss Holman Bridge over the Lachlan River at Gooloogong. This cracker of a bridge was built in 1904. The bridge is 18.5 metres wide and 252 metres long, and the project was completed three months ahead of schedule. The replacement and upgrade of bridges located in the bush not only improves road safety but also creates jobs and looks after the infrastructure of regional communities.

MURWILLUMBAH DISTRICT HOSPITAL

The Hon. WALT SECORD: My question is directed to the Minister for Ageing, representing the Minister for Health. In light of this morning's protest by young mums and babies about the closure of the birthing centre at Murwillumbah District Hospital how long will patients at that hospital be forced to use servant bells to gain urgent medical attention due to panic button breakdowns at the hospital?

The Hon. JOHN AJAKA: I will refer the question to the Minister for Health and obtain an answer.

10/50 VEGETATION CLEARING CODE OF PRACTICE

Mr DAVID SHOEBRIDGE: My question with minimal notice is directed to the Minister for Roads, Maritime and Freight, representing the Minister for Emergency Services. Will the Minister advise when the review of the 10/50 Vegetation Clearing Code of Practice will be completed and made public?

The Hon. DUNCAN GAY: I thank Mr David Shoebridge for his question without total notice.

Mr David Shoebridge: Minimal notice.

The Hon. DUNCAN GAY: Minimal notice—I think that is what he said. The Rural Fire Service [RFS] is currently conducting a review to address concerns raised by the introduction of these laws. The Government will carefully consider this review and hopes to be able to report on any updates to the scheme by mid-year. The Government is determined to ensure that the review addresses those who are removing trees and vegetation in a manner that is not in the spirit of the law, while also continuing to protect those who have trees and vegetation near their property that pose a bushfire risk. The Government believes in removing unnecessary regulatory obstacles, including the need for assessment or approval to clear trees and vegetation that allows home owners to prepare adequately for the bushfire season. Empowering responsible home owners in high-risk areas to minimise fuel loads and fire risk around their homes in an environmentally prudent way is a key bushfire preparation activity.

These are complex issues that require careful consideration. Since 28 November 2014 the entitlement area for category 2 vegetation is 30 metres. For category 1 vegetation, the entitlement area is 100 metres so long as the clearing is undertaken in accordance with the code of practice published by the NSW Rural Fire Service. Originally it was 10 metres and 50 metres, as indicated in the question from Mr David Shoebridge. This means that a property must be within 100 metres of category 1 vegetation—for example, forests, woodlands or heath—or within 30 metres of category 2 vegetation, such as rainforests, shrub land, open woodlands and grasslands, in order to remove trees and vegetation under the 10/50 scheme. Trees and vegetation within 10 metres and vegetation within 50 metres of buildings in these areas can be cleared, so long as the clearing is undertaken in accordance with the code of practice published by the NSW Rural Fire Service.

As members know, the determination was created in 2009 and assessed to a 10/30 scheme, which was proposed by the Victorian Government at the time. Restrictions apply for properties that are on a steep slope, within 10 metres of a prescribed stream or waterway, or near items of Aboriginal or cultural significance. The NSW Rural Fire Service has advised that this document is in no way a commentary on the 10/50 code of practice in New South Wales. The New South Wales 10/50 code of practice takes environmental concerns into consideration and was developed in consultation between the NSW Rural Fire Service, the Department of Planning, and the Office of Environment and Heritage. Any areas that have the potential to be subject to restrictions are identified by the 10/50 online tool on the NSW Rural Fire Service website. Detailed information regarding the application of the 10/50 code of practice and restrictions is available on the RFS website.

NSW PREMIER'S LITERARY AWARDS

The Hon. CATHERINE CUSACK: My question is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister inform the House about the success of the 2015 NSW Premier's Literary Awards?

The Hon. JOHN AJAKA: Multicultural NSW exists to promote unity and a strong commitment to Australia and our State of New South Wales so that all people can live in a cohesive and harmonious multicultural society. Our Government's amendments to the Multicultural NSW Act in 2014 incorporated

initiatives to combat racism in the objectives of Multicultural NSW. One of the important services provided by Multicultural NSW is language services, interpreting and translations in more than 100 languages. Accordingly, it was fitting that Multicultural NSW sponsored three awards in the 2015 NSW Premier's Literary Awards, two of which were for translation services.

As Minister for Multiculturalism, on Monday 18 May I was pleased to present three prizes sponsored by Multicultural NSW during the 2015 NSW Premier's Literary Awards at the State Library. The winner of the NSW Premier's Prize for Translation was Brian Nelson, Emeritus Professor in the School of Languages, Literature, Cultures and Linguistics at Monash University. According to the judges, his translations from French are distinguished by their fluency and linguistic scope. He is particularly distinguished in translations of the work of Emile Zola, bringing his satire to life in English. The Multicultural NSW Early Career Translator Prize is a new prize, which was offered for the first time this year. It went to Dr Lilit Zekulin Thwaites of La Trobe University. Her work includes translating from Spanish two science fiction novels, *Tears in Rain* and *The Immortal Collection*. Our linguistic diversity is one of our greatest strengths, and skilled translation benefits us all. Having access to great works of literature brought to us through an Australian language perspective gives us an insight into other forms of thinking and allows us to learn about other cultural traditions.

The winner of the 2015 Multicultural NSW Award was *Black and Proud: The Story of an Iconic AFL Photo* by Dr Matthew Klugman and Gary Osmond, published by Newsouth Books. It tells the story of the Australian Football League [AFL] player Nicky Winmar, who responded to racist taunts by raising his jumper and declaring: "I'm black and I'm proud to be black." Their book explores racism in sport and uses our common commitment to sport to educate us about our own weaknesses when it comes to racism. Award ceremonies such as this help to showcase the positive work that members of our community do every day to promote harmony and inclusion within our multicultural society. The promotion of harmony in our community begins and ends with us all. It is our obligation to work together to stamp out prejudice, racism and cultural division. These awards are a good step forward in this endeavour. It was a privilege to attend and to meet the very worthy award recipients. I thank them personally for their contribution to our community.

The PRESIDENT: Order! I call the Hon. Lynda Voltz to order for the first time.

GUN-RELATED CRIME

The Hon. ROBERT BORSAK: My question is directed to the Minister for Ageing, representing the Attorney General.

The PRESIDENT: Order! I cannot hear the question. I encourage members to remain silent while other members are asking questions. It becomes impossible for Hansard and very difficult for me to make any rulings about whether the questions are in order.

The Hon. ROBERT BORSAK: Is the Attorney General aware that the High Court indicated that standard non-parole periods are to operate as a legislative guidepost throughout the sentencing process and, as such, the application of standard non-parole periods in sentencing offenders in New South Wales is not mandatory and can be disregarded in practice? What modelling has been undertaken by the New South Wales Government that shows the effect of standard non-parole periods in deterring gun crime?

The Hon. JOHN AJAKA: I thank the member for his detailed question. I will refer it to the Attorney General and come back with an answer.

CAP AND PIPE THE BORES PROGRAM

The Hon. MICK VEITCH: My question is directed to the Minister for Primary Industries, and Minister for Lands and Water. When will the New South Wales Government deliver its promised funding for the Cap and Pipe the Bores program—sometimes known as the "cap and bore" program—to help farmers save water from leaking bores, and why has this program failed to begin?

The Hon. Dr Peter Phelps: Are there many leaking bores in the Labor Party?

The Hon. Lynda Voltz: There's a few on your side, mate.

The PRESIDENT: Order! Members have had their fun. They will come to order.

The Hon. NIALL BLAIR: I thank the honourable member for his question. Since 1991 the New South Wales Government has operated the popular Cap and Pipe the Bores program through the NSW Office of Water. The program has been funded jointly with the Commonwealth Government under the Great Artesian Basin Sustainability Initiative [GABSI]. The Cap and Pipe the Bores program has given New South Wales landholders in the Great Artesian Basin financial incentives to cap and pipe their free-flowing bores. This has stopped enormous volumes of precious groundwater being wasted, helped increase artesian pressure and established reliable and efficient supplies of good-quality water to properties across north-west New South Wales. The Great Artesian Basin is one of the largest underground freshwater resources in the world. It lies below 12 per cent of New South Wales and an estimated 1,400 bores tap its groundwater to support a population of more than 200,000 people.

Due to overuse over time, natural pressure across the basin has declined significantly and almost half the bores have stopped flowing, severely reducing landholder access to water. Under the Cap and Pipe the Bores program, the New South Wales and Commonwealth governments jointly fund up to 80 per cent of the cost to rehabilitate artesian bores and replace inefficient open bore drains with efficient pipe systems. Landholders contribute to the remaining costs. The program has been extremely successful in improving and securing groundwater supplies across north-west New South Wales, with increases in artesian bore pressure observed in many areas as a result of capping and piping schemes. Over the past 15 years the GABSI has rehabilitated some 390 bores and replaced approximately 10,000 kilometres of bore drains with efficient and reliable water supplies. This has resulted in saving almost 79 gigalitres of water a year, which equates to 31,600 Olympic-size swimming pools.

The third phase of the Great Artesian Basin Sustainability Initiative concluded in June 2014. In October 2014 the Commonwealth Government announced its recommitment to future funding for the initiative. Some 220 Great Artesian Basin bores continue to flow uncontrolled, wasting precious water. There are many bores that are not flowing but still require rehabilitation. The New South Wales Government's 2014-15 budget has allocated \$1.5 million for rehabilitation of artesian bores, which will be provided to landholders whose projects are ready to proceed. However, this funding alone will not be sufficient to maintain the rate of implementation and level of success that has been achieved under the joint Great Artesian Basin Sustainability Initiative over the past 15 years. Most of the remaining landholders who have properties atop the Great Artesian Basin and have not yet had the opportunity to access this funding are typically graziers in the far north-west of New South Wales.

In recent years they have been impacted by severe drought. Without continued funding, the cost of capping and piping their free-flowing bores is prohibitive, but the cost to the environmental health of the basin and those farming families that rely on the groundwater is boundless. The New South Wales Government is committed to seeing that the great and important work of the Cap and Pipe the Bores program continues. To ensure this happens, I have signed a funding agreement with the Commonwealth Government. Of the \$15.9 million announced by the Commonwealth Government in October last year, \$6 million has been allocated to New South Wales so far, which has been matched by a further \$6 million from the New South Wales Government. We will continue to work with the Commonwealth Government to ensure that this vital program continues to be funded into the future.

The Hon. MICK VEITCH: I ask a supplementary question: Will the Minister elucidate his answer with regard to when he signed the agreement with the Commonwealth Government?

The Hon. NIALL BLAIR: I thank the honourable member for his question. The answer is not about when; the fact is I have signed it. It is in train; we have signed it.

COASTAL INTEGRATED FORESTRY OPERATIONS APPROVALS

The Hon. TREVOR KHAN: My question is addressed to the Minister for Primary Industries, and Minister for Lands and Water. Will the Minister update the House on the New South Wales Government's trial to test new timber harvest rules?

The Hon. NIALL BLAIR: Today, as part of the remake of the Coastal Integrated Forestry Operations Approvals, the Minister for the Environment, Minister for Heritage, and Assistant Minister for Planning, the Hon. Mark Speakman, and I announced a three-month trial to assess protection for threatened species. This trial is part of the New South Wales Liberal-Nationals Government's commitment to modernise the regulatory framework for forestry operations on Crown timber land in coastal New South Wales. In February 2014 the

New South Wales Government publicly released a discussion paper for a six-week consultation period and undertook a series of public workshops on the remake of the approvals. The remake of coastal operations approvals will make sustainable timber harvesting rules simple and clear, help to ensure the long-term viability of the sector, and protect the environment.

This is a small-scale trial in a highly restricted area that will test the implementation of proposed new conditions designed to achieve better environmental outcomes and the same wood supply outcomes. The trial will commence shortly in a small number of approved timber harvesting operations in State forests between Bulahdelah and Macksville. The simple fact is the regulations are too complex, confusing and, in some parts, contradictory. When regulations are vague, confusing and contradictory, misinterpretations may happen. Many of the options being tested in the trial for threatened species protection were based on recommendations reviewed by the independent threatened species expert panel.

The NSW Environmental Protection Authority [EPA] and the Forestry Corporation of NSW will carefully manage the trial to ensure that appropriate controls are in place and to minimise any potential environmental impacts. Improving the regulation of native forestry in New South Wales is an important reform that builds on the New South Wales Government's commitment to a sustainable and viable forestry sector. The four forestry operations approvals that regulate forestry in the coastal areas of New South Wales are more than 10 years old. Over time, they have become unclear and, in parts, contradictory. They are sometimes difficult to enforce, they focus on administrative processes rather than environmental outcomes and they no longer represent the best practice regulatory framework that the people of New South Wales expect.

There are no winners when regulations are vague, confusing and contradictory. That is why it is important to remake these outdated approvals for the coastal areas of New South Wales into a modern, enforceable regulation that focuses on achieving good environmental outcomes, while maintaining a sustainable timber supply. This remake aims to replace 12 separate licences and about 2,000 different conditions with a single rule book with one clear set of conditions that will maintain the strict environmental protection that we all expect, while ensuring that our timber industry remains able to access the same amount of timber as it does today. Making sure that we all clearly understand the rules and agree on how the restrictions are applied can only be a good thing for the environment. The remake of the operations approvals has been a measured and considered process that has involved extensive community input and advice from an expert advisory panel.

The approvals are the fundamental framework for the EPA, the Forestry Corporation of NSW and the Department of Primary Industries when it comes to carrying out and regulating forestry operations. Therefore, the process has also involved considerable discussions and negotiation amongst these agencies to ensure that the end result is practical. This trial is an important step that will ensure that we have crossed all the t's and dotted all the i's and that we know what works before we present a proposed new coastal forestry operations approval process and commence the final round of community consultation.

HOSPITAL INPATIENT AND STAFF SCREENING PROTOCOLS

The Hon. ROBERT BROWN: My question without notice is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Are inpatients of New South Wales hospitals subject to protocols for regular screening for the contraction of nosocomial infections, including drug-resistant bacteria such as methicillin-resistant staphylococcus aureus [MRSA] and vancomycin-resistant enterococci [VRE]? If so, what are these protocols? If such protocols exist, does this type of screening extend to doctors, nurses or other allied health workers to prevent further transmission to other patients, staff and, importantly, the families of healthcare workers or the broader community? If so, how is this facilitated?

The Hon. JOHN AJAKA: I thank the honourable member for a very detailed question, which clearly deserves a very detailed answer. I will refer it to the Minister for Health and come back with an answer.

COASTAL INTEGRATED FORESTRY OPERATIONS APPROVALS

The Hon. PENNY SHARPE: My question is directed to the Minister for Primary Industries, and Minister for Lands and Water. In light of his previous answer regarding the forestry operations trial in northern New South Wales, can the Minister confirm that he is giving the go-ahead for cable logging in this State?

The Hon. NIALL BLAIR: I thank the honourable member for her question. As I indicated in my earlier answer, the integrated forestry operations approvals [IFOA] remake and the New South Wales

Government will replace an ineffective and inefficient model with a contemporary model that delivers better environmental outcomes and streamlines regulation. The remake of IFOAs for the coastal regions is expected to streamline and simplify the current process for carrying out harvesting with strong environmental parameters.

The existing IFOA no longer reflects best practice and many of the 2,000-plus conditions are prescriptive, overlapping and unenforceable. Through the revised IFOA the industry will be able to operate more efficiently and the enforcement of the conditions will be more meaningful. Through focusing on outcomes and impacts we will be able to deliver positive environmental outcomes at the landscape level without imposing unnecessary costs on the Forestry Corporation's management of our native forest estate. There will continue to be a very high level of environmental protection and oversight for forestry operations in New South Wales.

There has been an extensive public consultation process on the remake of the IFOA for the coastal region of New South Wales and industry and the community were invited to participate through the consultation process held last March, which included targeted consultation with peak environment groups, followed by a series of public meetings around the State. The Forestry Corporation of New South Wales is working, as I said earlier, with the Environment Protection Authority and the Department of Primary Industries on formulating the draft IFOA. Once they have drafted the IFOA and it is developed, a second period of consultation will be held before the regulations are finalised.

The Hon. PENNY SHARPE: I ask a supplementary question. Would the Minister elucidate his answer in regard to when he refers to streamlining? Is he referring to cable logging and will it be allowed to go ahead under this trial?

The Hon. NIALL BLAIR: I refer the member to my previous answer.

ILLAWARRA AND SOUTH COAST INFRASTRUCTURE

The Hon. BRONNIE TAYLOR: My question is addressed to the Minister for Roads, Maritime and Freight. Could the Minister update the House on progress with the Foxground and Berry bypass?

The Hon. Mick Veitch: The President will be listening very closely, I have no doubt.

The Hon. DUNCAN GAY: Except that the President is restricted by his capacity. I know he would be asking a question like this because of his location, as well as the Hon. Rick Colless, who wanders through there on occasions. Since winning office in March 2011, the New South Wales Liberal-National Government has invested more than \$20 billion in roads and freight infrastructure and services in New South Wales. This is the highest level of funding for roads and freight in the State's history. We are getting on with the job of improving road infrastructure in the Illawarra and the South Coast, particularly for communities along the Princes Highway. The quiet, mild-mannered member for Kiama never misses an opportunity to speak to my office about the issues in his electorate.

Our major projects are not only improving safety but are also boosting the local economy and providing jobs. We have committed \$785 million—the former mayor of Shoalhaven the Hon. Paul Green would be pleased to know that—in funding to upgrade and maintain the Princes Highway. This is a 65 per cent increase. There are a lot of Labor seats down there that were absolutely ignored. The Labor Party never does anything for its own. This is a 65 per cent increase in funding compared to the Labor Party's spend on the highway in its last four years in office.

Central to this historic level of funding is \$580 million allocated to stage two of the Princes Highway upgrade, the Foxground and Berry bypass. This is the most significant transport infrastructure investment on the South Coast in decades. The Foxground and Berry bypass will provide two lanes in each direction for 11.6 kilometres between Toolijooa Road and Schofields Lane. The upgrade includes a bypass of the existing winding highway at Foxground and a bypass of Berry, with access ramps at the north and south of the town.

The upgrade involves building 10 new bridges using more than 390 pre-stressed beams. In May this year Roads and Maritime Services started delivery of more than 100 concrete super-T girders to support bridge decks for the project. To minimise the impact to motorists, deliveries will take place between 5.00 a.m. and 7.00 a.m. on weekdays. Other features of the proposed upgrade include improved flood protection and highway crossings for wildlife.

The bypass is expected to open to traffic in mid-2018, weather permitting. Investment in infrastructure is central to the future prosperity and growth of the Illawarra. Under this, the New South Wales Government work on the Princes Highway is moving forward at a record rate. If ever the Labor Party got out of the eastern suburbs of Sydney and actually took a drive down the Princes Highway, they would see the work happening at an incredible rate.

NURSING ACCREDITATION

The Hon. PAUL GREEN: My question without notice is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism, representing the Minister for Health. A nurse in New South Wales who does not meet the requirements of recency of practice for more than 10 years out of the workforce will either have to do a \$10,000 re-entry course or re-do their bachelor of nursing degree. Can the Minister describe the precise criteria used by the Nursing and Midwifery Board of Australia, which determines whether a nurse qualifies for a re-entry course or has to re-do an entire degree, and are there any other health professionals who are subject to these same two outcomes?

The Hon. JOHN AJAKA: I thank the honourable member for another very detailed question directed to the Minister for Health. I will refer it to the Minister and provide a response.

MULTICULTURAL NSW

The Hon. SHAOQUETT MOSELMANE: I direct my question to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. In light of the fact that the Multicultural NSW annual report reveals that revenue collected as user charges has increased by 15 per cent since the Liberal-Nationals Government was elected, will he give an undertaking that this revenue is being reinvested in multicultural services?

The Hon. JOHN AJAKA: I thank the honourable member for his question because it gives me an opportunity to tell the House about the great work being undertaken by the staff of Multicultural NSW. Great services are being provided to the various culturally and linguistically diverse communities in this State that now comprise 50 per cent of the population. This revenue has increased in response to an increase in demand for those services; Multicultural NSW is providing the additional services that are being requested. This Government is providing the services that the people of New South Wales want and require.

The PRESIDENT: Order! I call the Hon. Lynda Voltz to order for the second time. I call the Hon. Sophie Cotsis to order for the first time.

The Hon. JOHN AJAKA: Part of the great news is that Service NSW offices are now also providing language services to our community, including easy and immediate access to translation services. Multicultural NSW will continue to provide great services.

HORNSBY DISABILITY SERVICES

The Hon. DAVID CLARKE: I address my question to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister outline what the New South Wales Government is doing to support people with disability in the Hornsby local government area?

The Hon. JOHN AJAKA: I was honoured to return for the official opening of the Stephen Street group home on 30 April 2015 with the great local member for Hornsby, Matt Kean. Less than 12 months ago I turned the first sod at the property with the local member. The New South Wales Government invested \$1.7 million to build this new home for five men with disability who were previously accommodated in a more than 25-year-old group home in Balmoral Street. It was in the best interests of residents that they be relocated to Stephen Street because rezoning in the Balmoral Street area would have positioned the old house in the middle of a high-density development. The old house was also in need of extensive repair. The new home will improve the residents' independence because it has more space and better accessibility and it will support them more effectively.

The new home has been purpose built to meet the men's needs and has wheelchair access, accessible bathrooms and a private courtyard for recreational activities and gardening. The property was designed in consultation with the residents and their families to help personalise it and to create a sense of it being their

home. Residents have their own rooms with separate access. However, they have shared dining, kitchen and lounge room areas so that they can participate actively in the running of the household. The men's joy and excitement about their new home was evident when I was given a guided tour. Of course, that joy is shared by their families. One of the residents, David, has decked out his room with Elvis and Rabbitoh memorabilia. He and I had a discussion about the Rabbitohs and the Dragons.

All of the residents have regular social outings. Given that they are remaining in the local area, they can continue their current activities and programs, such as grocery shopping at Hornsby Westfield, going to local clubs for dinner, and ten-pin bowling. They can also maintain their positions in paid employment in the area. The Stephen Street location builds on their existing connections in the local community because they have greater access to the Hornsby shopping district. I have been informed that the men who live in this lovely new home are enjoying their new environment and are continuing to live a fulfilling life in their local community.

The New South Wales Government supports 51 group homes in the northern Sydney district and accommodates 238 people with disability. It also operates eight respite homes to provide support to families. These group homes provide residents with access to their community and promote involvement in everyday activities to ensure they have more opportunity to enjoy regular life experiences. The new group home in Stephen Street demonstrates the Government's continued commitment to supporting people with disability. The Government will continue to deliver for people with disability as it prepares to roll out the National Disability Insurance Scheme.

GOLD COAST AIRPORT CROWN LAND LEASE

Ms JAN BARHAM: I direct my question to the Minister for Primary Industries, and Minister for Lands and Water. I refer to the decision to transfer a Crown reserve lease to Gold Coast Airport on 18 October 2013. Can the Minister advise whether the Minister responsible for Crown land was aware of the expectations of the operator of the Gold Coast Airport that "in the longer term, the securing of the additional land area for the airport will enable construction of an extension to the runway"? That statement was in a letter addressed to the then Minister for Planning and dated 25 November 2013. Was consideration given to granting the lease in the knowledge that the operators of Gold Coast Airport intended not only to install an instrument landing system but also in the longer term to expand the airport runway on the Crown reserve?

The Hon. NIALL BLAIR: In my response to the House on 28 May I stated that the lease for the Gold Coast Airport covered airport infrastructure and land management. It does not authorise any works. However, it does provide that airport infrastructure works may be installed subject to relevant planning approval. Planning approval is not necessary under New South Wales legislation because the Commonwealth is responsible for the regulation of airport development. The instrument landing system [ILS] is subject to the approval of a major development plan under the Commonwealth Airports Act 1996. I indicated that the draft plan has been released for public consultation, which will conclude on 13 July. Again as I indicated, environmental planning approvals for the development are covered by Commonwealth legislation. Anyone concerned can make a submission online at the website hosted by Gold Coast Airport. I am not aware of what the former Minister knew, so I cannot answer that question.

COASTAL INTEGRATED FORESTRY OPERATIONS APPROVALS

The Hon. PENNY SHARPE: I direct my question the Minister for Primary Industries, and Minister for Lands and Water. In light of the Minister's two previous answers, will he give an undertaking that compartments on the North Coast with identified koala populations will not be affected by the trial?

The Hon. NIALL BLAIR: The honourable member is referring to the integrated forestry operations approval [IFOA] I mentioned earlier and cable logging. The IFOA trial deals with protection of threatened species in those areas. That is separate from the trial being conducted on steep slopes. There will be no harvesting on slopes that exceed 30 degrees. Part of the trial will deal with a specific area that addresses koala habitat protection. The licence requires the Government to look for koala—

The PRESIDENT: Order! I call the Hon. Walt Secord to order for the first time. I call the Hon. Penny Sharpe to order for the first time. It is a serious breach of the standing orders to interject continually on a Minister in an attempt to prevent him from giving an answer, which is what both members are doing. The Minister has the call.

The Hon. DUNCAN GAY: There is a specific section in this trial that addresses the issue of koala habitat protection as well as riparian exclusion zones, silviculture and tree retention. It is a detailed trial that was drafted in consultation with the Environment Protection Authority [EPA]. It is going to be monitored and will be put out for community consultation after the trial. This is about getting better environmental outcomes while allowing the forestry sector to continue to be a strong and sustainable industry in regional New South Wales. We should all work smarter to achieve strong environmental outcomes while protecting an industry that is vital to many of our communities. By testing new methods we can try to get the balance right.

If those on the other side of the Chamber want to have a sustainable forestry sector in the future, if they want people to be employed in regional New South Wales, if they want to look at world best practice on how these operations should be run to improve environmental outcomes, they should support this trial. They should get behind it to make sure that when it goes out for community consultation, if they or any stakeholders have concerns, they make a submission.

The Hon. PENNY SHARPE: I ask a supplementary question. I thank the Minister for answering my question, but would like him to elucidate on whether any of the compartments in the trial have identified koala populations.

The PRESIDENT: Order! The supplementary question is out of order because it is merely re-asking the question.

HEAVY VEHICLE MASS LIMITS

The Hon. SARAH MITCHELL: My question is directed to the Minister for Roads, Maritime and Freight. Can the Minister update the House on work the New South Wales Government is undertaking to reduce the red tape for higher mass limit vehicles in New South Wales?

The Hon. DUNCAN GAY: I thank the member for her question. In her role as Parliamentary Secretary for Western New South Wales she would know how important this issue is. I am sure recent changes in the heavy vehicle industry are making truckies in her local area very happy, and happy truckies mean happy communities. Yes, there have been changes to higher mass limits in New South Wales for heavy vehicles. Higher mass limits enable truckies to carry more goods per load, meaning fewer trips on the roads, which equals less wear and tear. It also means cost savings—

The Hon. Lynda Voltz: Safety.

The Hon. DUNCAN GAY: Yes, that is what it is about. It also means cost savings for our local businesses and farmers and, ultimately, our community. Reducing trips by increasing loads cuts freight costs. This Government has taken yet another step to slash red tape for the heavy vehicle industry. We have now opened up to 98 per cent of the state-owned road network to higher mass limit vehicles plus increased access on regional and council-owned roads. I repeat: We have opened up to 98 percent of our roads.

The Hon. Lynda Voltz: Like the Tempe High School

The PRESIDENT: Order! I remind the Hon. Lynda Voltz that she is on two calls to order. I will not hesitate to remove her from the Chamber if she interrupts the Minister again.

The Hon. DUNCAN GAY: Why is this such good news? As the Minister for Roads, Maritime and Freight in New South Wales, I have made it my business to ensure that trucking is not rife with bureaucratic hoops that companies and drivers have to jump through just to get food on the millions of tables across the State. The heavy vehicle industry is such an understated industry that many of us take for granted, and the New South Wales Government has been working with the National Heavy Vehicle Regulator to help transport operations get from A to B more easily, while ensuring safety for all road users.

Before these changes were brought into play on 2 April, truckies were required to get individual permits for each higher mass limit [HML] route in New South Wales. Now they do not need permits on approved routes. This means a significant number of pre-approved HML routes across the State are now accessible. We want to make sure that the right vehicles are on the right roads and make it easy for operators and drivers to travel on these routes.

This change also improves efficiency and delivery times for industry and the thousands of people and businesses waiting on deliveries daily. I have been working closely with the National Heavy Vehicle Regulator chairman, Bruce Baird, to get this new arrangement in place. Over the past year the New South Wales Government has listened to what heavy vehicle drivers and operators want and need, and results like this speak for themselves. This is a great result for the freight industry. The slight from the honourable member about the industry and safety—

The Hon. Shaoquett Moselmane: Point of order: The Minister objects to members interjecting and yet he engages with the members who interject. Mr President, I ask you to ask the Minister not to encourage members to interject.

The PRESIDENT: Order! There is no point of order. The Minister may conclude his answer, preferably not by responding to interjections.

The Hon. DUNCAN GAY: The member kept raising safety as if there is a problem with what we are doing in safety. No state in the Commonwealth has put safety of heavy vehicles ahead of what New South Wales has done.

The Hon. Lynda Voltz: Tell the parents of Tempe High School.

The PRESIDENT: Order! I call the Hon. Lynda Voltz to order for the third time.

The Hon. DUNCAN GAY: Talk to your colleague in the seat behind you.

The Hon. Lynda Voltz: Tell the parents of Tempe High School.

The PRESIDENT: Order! I direct the Usher of the Black Rod to remove the Hon. Lynda Voltz from the Chamber. The member may return to the Chamber after question time.

[Pursuant to standing order the Hon. Lynda Voltz left the Chamber, accompanied by the Usher of the Black Rod.]

PUBLIC SCHOOL ENROLMENT FORM

Dr JOHN KAYE: My question without notice is directed to the Minister for Roads, Maritime and Freight, representing the Premier. Why did the Premier's office push the New South Wales Department of Education and Communities to update the public school enrolment form by December 2014 rather than the date in the department's original timetable—that is, April 2015?

The Hon. DUNCAN GAY: I thank the member for his question. I am unaware of the detail and I will refer the question to the Premier for a detailed answer.

OFFICE OF WOMEN

The Hon. SOPHIE COTSIS: My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water, representing the Minister for Women, and Minister for the Prevention of Domestic Violence and Sexual Assault. Will the Government reinstate the Office for Women NSW to the Department of Premier and Cabinet, as requested by the Women's Domestic Violence Court Advocacy Service NSW?

The Hon. NIALL BLAIR: I thank the member for her question. I will refer the question to the Minister for an answer.

TOURISM AND MAJOR EVENTS

The Hon. NATASHA MACLAREN-JONES: My question is addressed to the Minister for Ageing, representing the Minister for Tourism and Major Events. How is Sydney benefiting from tourism initiatives and events secured by the New South Wales Government during winter?

The Hon. JOHN AJAKA: I thank the member for her question and acknowledge her strong interest in tourism and major events. Once again it is my pleasure to update the House on the great work being undertaken

by my colleague and friend the Hon. Stuart Ayres in the Legislative Assembly. He has delivered outstanding results since taking on the responsibility for tourism and major events, and visitors and Sydneysiders are in for a feast of events over winter. The centrepiece winter event, Vivid Sydney, is managed by Destination NSW, the New South Wales Government's tourism and major events agency. Vivid Sydney is spread over 18 days and nights from 22 May to 8 June and visitors are experiencing the festival's largest and most interactive program to date. My family and I have had the pleasure of enjoying this great attraction.

This year there are more than 60 light installations and new precincts to explore, including Chatswood and Central Park. There are also ideas seminars. The Vivid Ideas' line-up of creative leaders and emerging talent will expand across a program of more than 150 events, spanning the creative industries, and expanded music offerings including Grace Jones, Daniel Johns, Morrissey and the Hoodoo Gurus. A new event this year for Vivid Ideas is a one-day event entitled "The Future of Work" that explores the many ways the nature of careers is changing and how Australia compares on the world stage. Presented in partnership with the Centre for Workplace Leadership, "The Future of Work" will be hosted at Google's innovative waterfront headquarters in Pyrmont on 4 June. It will draw on methods and approaches of design innovators and tech entrepreneurs to help business leaders shape their workforces and workplaces for the future.

Vivid Sydney is now firmly established as a must-see global event—it attracted 1.43 million attendees and added \$41 million to our State's visitor economy in 2014. Film buffs can enjoy the Sydney Film Festival from 3 June to 14 June. *Matilda the Musical* will have its Australian premiere in Sydney on 28 July at the Sydney Lyric Theatre. It follows in the footsteps of recent blockbusters *Les Misérables* and Handa Opera on Sydney Harbour's production of *Aida*. Sport fans have been treated with two major international football clubs coming to New South Wales to play Sydney FC—Tottenham Hotspur and Chelsea FC—in friendly games and they displayed exceptional sportsmanship. State of Origin game one was in May and the Netball World Cup and Bledisloe Cup will be in August, followed by the NRL Grand Final Week in October.

The Government, through Destination NSW, has also been promoting Sydney in winter to our key interstate markets through the "Love Every Second of Sydney and New South Wales in Winter" campaign. A 40-page "Love Every Second of Sydney and New South Wales in Winter" guide and additional Vivid Sydney guide were distributed through media publications to nearly three million people in Australia and New Zealand in March this year. These guides provide all the essential information and inside tips about making a trip to Sydney and New South Wales unforgettable. Destination NSW and a number of industry partners also worked together to offer fantastic travel deals as part of the campaign. There is plenty to see and do during the winter period in Sydney. It is all part of the plan to keep Sydney and New South Wales the number one tourism and major events destination in Australia.

The Hon. DUNCAN GAY: If members have further questions I suggest that they place them on notice.

CAP AND PIPE THE BORES PROGRAM

The Hon. NIALL BLAIR: In answer to a supplementary question that was asked earlier by the Hon. Mick Veitch, the Government signed the agreement with the Federal Government on 7 May.

Questions without notice concluded.

ASSENT TO BILLS

Assent to the following bill was reported:

Payroll Tax Rebate Scheme (Jobs Action Plan) Amendment (Extension) Bill 2015

GENERAL PURPOSE STANDING COMMITTEE NO. 3

Chair and Deputy Chair

The PRESIDENT: I inform the House that at a meeting held today Ms Jan Barham was elected Chair and Ms Natasha Maclaren-Jones was elected Deputy Chair of General Purpose Standing Committee No. 3.

ELECTRICITY NETWORK ASSETS (AUTHORISED TRANSACTIONS) BILL 2015**ELECTRICITY RETAINED INTEREST CORPORATIONS BILL 2015****In Committee****Consideration resumed from an earlier hour.**

The Hon. ADAM SEARLE (Leader of the Opposition) [3.34 p.m.], by leave: I move Opposition amendments Nos 1 and 2 in globo on sheet C2015-009B:

No. 1 Parliamentary approval for authorised transactions

Page 4. Insert after line 13:

6 Authorised transactions require Parliamentary approval

An authorised transaction cannot be entered into unless approved by a resolution of both Houses of Parliament.

No. 2 Parliamentary approval for transfer of network retained interest

Page 5. Clause 7 (2), lines 9–24. Omit all words on those lines. Insert instead:

- (2) This section does not prevent a transfer authorised by a resolution of both Houses of Parliament.

As I outlined in my contribution during the second reading debate, the Labor Opposition has no difficulty with investment in New South Wales, including foreign investment. But Labor does have some concerns about foreign government investment because foreign governments—

The Hon. Dr Peter Phelps: Which governments?

The Hon. ADAM SEARLE: Any foreign governments, because any foreign government or its commercial arm will have not merely commercial interests but, potentially, strategic and diplomatic interests. We still do not know the full details of the proposed leases—many matters remain opaque and shrouded in mystery. The Government has not been forthcoming. Labor is proposing these amendments to provide an ongoing role for each House of this Parliament to sign-off on any transaction when it has concluded but before it has been entered into. A range of concerns have been raised, including by those in this Chamber.

The Hon. Dr Peter Phelps: Elaborate on them.

The Hon. ADAM SEARLE: For example, Reverend the Hon. Fred Nile has had some concerns in this area. On 11 March 2015, on the Christian Democratic Party website, Reverend the Hon. Fred Nile said that one of his key concerns in this transaction was foreign ownership. On 25 March 2015, again on his party's website, Reverend the Hon. Fred Nile said:

I have clearly stated in the past few weeks that the CDP, if re-elected, will use our balance of power in the Upper House to oppose any Government proposal to sell our poles and wires off-shore ...

That was reiterated as one of the four conditions of the party's support for the leasing proposal, again posted on the party's website on 26 March 2015. The Christian Democratic Party stated:

We oppose the privatisation, until:

1. An independent, transparent inquiry chooses to recommend it

[*Interruption*]

I acknowledge that in his—

The Hon. Dr Peter Phelps: Do I hear a dog whistle?

The Hon. ADAM SEARLE: No. I will come to that. The Christian Democratic Party statement continued:

2. There is a guarantee to protect jobs
3. A stop electricity price increases
4. And no foreign ownership

We have a difference of opinion with Reverend the Hon. Fred Nile because we do not have a problem with foreign ownership. But there is nothing in the legislation that enables any party or any member to secure the ongoing public interest in these transactions, simply because so many details are being withheld from the Government. We do not know what the terms of the leases are, even though these are monopoly assets and there is no competition. The usual concerns around commercial in confidence do not apply in this case. They do not apply because these are monopoly businesses—there is only one set in New South Wales—and the Government is the vendor.

Once the Government chooses the successful tenderer, purchaser or lessee—however one describes it—there is no good reason to keep the terms of the lease or the terms of the operating licences, or dozens of other details about the transaction, a secret from the public. At the moment the public owns and controls these assets. These are some of the most significant financial assets in this State. They are profitable and give a good return to the community. The public deserves to know, and the Parliament should hold the Government accountable on those terms. That is why we propose these two amendments that would require any authorised transaction not to be entered into until each House of this Parliament, when it is properly and fully informed, by resolution agrees to those transactions.

It is not simply the idea of the lease—and that is all that is in the bills before the Committee—there are many possible permutations, not least of which is the structuring of the lease. At least three different corporate vehicles are provided for in the cognate bill. We do not know which combination or which one will be chosen. We do not know many of the aspects of the potential commercial arrangements. One configuration may well be in the public interest, in the view of the majority of this place. A different combination may be profoundly against the public interest. We simply cannot know until we see the details, but those details are not forthcoming. What we are being asked to sign-off on is a mere outline. Let us fill in the details; let us not give the Government a blank cheque. Let us say that if this legislation passes, and once the Government has filled in those details, the Government still needs to secure the support of each House for those authorised transactions.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [3.39 p.m.]: The Government opposes Opposition amendment No. 1. In part 3, the overview of the bill, the Treasurer is authorised to effect these transactions. Opposition members are entitled to oppose the bill. We also oppose Opposition amendment No. 2, given that the legislation makes it clear that the private sector interest in the State's electricity assets must not exceed 49 per cent, as per the definition in the legislation. The Opposition's proposal would make it impossible to implement a number of transaction strategies in a commercial or competitive environment. Opposition members say that they cannot hear the dog whistle, but I can hear it loud and clear.

Reverend the Hon. FRED NILE [3.40 p.m.]: The Christian Democratic Party cannot support these amendments because they amount to second-guessing what we are doing now. We are debating this issue now and we are giving the Government authority to proceed with the leasing of the electricity poles and wires. These amendments would require another debate at some future time, which would be a duplication of what we are doing now. If the Opposition is not in agreement, now is the time to indicate that to the Committee. The lower House has already decided this issue. It is now up to members in this Chamber to make a decision so that we do not have to repeat this process in two or three months time.

Dr JOHN KAYE [3.41 p.m.]: The Greens support Opposition amendments Nos 1 and 2 precisely because of the behaviour of the Labor Party in the past. We do not forget what happened under the regimes of Iemma and Keneally—

Reverend the Hon. Fred Nile: This is a Coalition Government, not a Labor government.

Dr JOHN KAYE: I acknowledge the interjection of Reverend the Hon. Fred Nile and note that this Government is comprised of people who, like those in the Labor Party, have been caught up in their own commitment to privatisation. In monetary terms this is the largest privatisation in which this State is likely to be engaged. It would be terrible for the Government if we reached the stage where the only bidder was somebody who was inappropriate, or the only way the Government could get the \$13 billion that it claims it could get was by cutting a deal that was inappropriate. That would mean the Government would be faced with a choice: Does it walk out with its key election promise in tatters? Does it have the courage and the honesty to front up and say to the public, "Look folks, we tried but we could not do it"? Does it do what Labor did and push ahead with a dodgy deal which, by any measure, cost the State about half the retention value of the generators and the retailers?

Having been to an election that was dominated by this issue, there is considerable pressure on the Government to push ahead with the deal. It is good that this amendment is coming from the Labor Party; it shows that it understands what happened in 2008, 2009 and 2010. Governments are comprised of politicians who are under political pressure. So let us bring back the lease and the purchasers, give the Parliament the details and conduct one more check. That would be entirely appropriate, given the risks that this State faces.

Reverend the Hon. Fred Nile said that a further check would duplicate the decisions we are making today, when the contrary is true. We are making decisions today without full knowledge of the details of the lease, without knowing who the purchasers are, without knowing the lease conditions, and without knowing what will be in the licences. In many ways we are shooting in the dark in relation to this legislation. We are signing over powers to the Government that are easily open to exploitation. So it would be appropriate balance if we brought back the deal to Parliament one more time to be signed off—not to debate the issue of privatisation but to debate the issue of whether the deal that is being cut is in the best interests of the people of New South Wales and to debate the issue of whether the purchasers are appropriate.

I said very clearly in the second reading debate that I do not make a distinction between a multinational corporation and an Australian corporation—I do not think there is any difference. Once the electricity assets are sold to a corporation, that corporation will behave in the best interests of its shareholders and that will bring with it a number of problems for New South Wales. However, I make a big distinction between a corporation that operates for the benefit of a bunch of shareholders and a corporation that is wholly owned by an authoritarian government. I want the Government to justify—and I am sure Reverend the Hon. Fred Nile would agree, given what he said during the election campaign—how it is that privatising a network into the hands of a government, whether it is the Russian Government, the Chinese Government, the Cuban Government, the Korean Government—

The Hon. Rick Colless: The North Korean Government.

Dr JOHN KAYE: The member referred to the North Korean Government. I thought we had an agreement not to trivialise the tragedy of North Korea. Any authoritarian government and any government that does not operate with the checks and balances of a democratic process is a cause for serious concern and something that we should have an opportunity to debate. I support Opposition amendments Nos 1 and 2.

The Hon. ADAM SEARLE (Leader of the Opposition) [3.46 p.m.]: I thank members for their contributions to debate on Opposition amendments Nos 1 and 2 and make the point that this is about ensuring that when the ultimate transaction is signed off on and all its constituent parts are added up it is in the public interest. There are too many details on which the Government has not been forthcoming. These bills constitute only an outline. We do not know how the transactions will be structured, we do not know how they will be governed, and we do not know how the retained interest corporations will operate vis-a-vis whatever the operating entity is. We do not know whether the Government's chosen strategy to retain a proportion of its share of tax equivalent payments is sound because we have not seen the advice.

There are too many details about which we have no knowledge for it to be safe for the Parliament to sign-off on this proposal. We cannot give this Government the blank cheque that is proposed in these bills. These amendments are a prudent mechanism to ensure that when the Government has chosen the lessee and concluded the terms of the lease—which Treasury officials tell us are still being worked on, so we know this is a moveable feast and that it is still in progress—and when we know the wider details of the lease transactions, that is what should be approved by the Parliament.

The problem that we have with the bills in their current configuration is that too much flexibility is being given to the Treasurer in relation to the transaction because the lease, the operating licence and all those details are not known, and probably will not be known. As the people's representatives we will have no knowledge of whether the transaction ultimately settled upon, and executed by the Government, is in the public interest or whether sufficient safeguards are in place to ensure that the public interest is sufficiently safeguarded. We simply will have no knowledge about those matters unless these safeguards are put in place. I urge members to support these amendments.

Question—That Opposition amendments Nos 1 and 2 [C2015-009B] be agreed to—put.

The Committee divided.

Ayes, 16

Ms Barham	Mr Mookhey	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Voltz
Ms Cotsis	Mr Searle	
Dr Faruqi	Mr Secord	<i>Tellers,</i>
Mrs Houssos	Ms Sharpe	Mr Donnelly
Dr Kaye	Mr Shoebridge	Mr Moselmane

Noes, 22

Mr Ajaka	Mr Farlow	Mrs Mitchell
Mr Amato	Mr Gallacher	Reverend Nile
Mr Blair	Mr Gay	Mr Pearce
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mr Harwin	
Mr Clarke	Mr MacDonald	<i>Tellers,</i>
Mr Colless	Mrs Maclaren-Jones	Mr Franklin
Ms Cusack	Mr Mallard	Dr Phelps

Pair

Mr Wong

Mr Mason-Cox

Question resolved in the negative.**Opposition amendments Nos 1 and 2 [C2015-009B] negatived.**

The CHAIR (The Hon. Trevor Khan): The Greens amendment No. 1 on sheet C2015-016A, which is an amendment to Opposition amendment No. 3, and The Greens amendment No. 1 on sheet C2015-015 are in conflict with Opposition amendment No. 3. In those circumstances it would seem appropriate for Opposition amendments Nos 3 and 4, The Greens amendment No. 1 on sheet C2015-016A and The Greens amendment No. 1 on sheet C2015-015 to be moved together. They will then be voted on in appropriate order.

The Hon. ADAM SEARLE (Leader of the Opposition) [3.58 p.m.], by leave: I move Opposition amendments Nos 3 and 4 on sheet C2015-010H in globo:

No. 3 Electricity price guarantee by authorised network operator

Page 5. Clause 8 (1) (a), lines 38–40. Omit all words on those lines. Insert instead:

- (a) the network operator's total network charges for each financial year until (and including) the financial year ending 30 June 2019 will be lower than for the preceding financial year, and

No. 4 Electricity price guarantee—report of Price Commissioner

Page 6. Clause 8 (2). Insert after line 8:

- (b) a report, for each proposed transaction, as to each factor that may reasonably bear on putting upward pressure on network charges and the likelihood of those factors, separately or in combination, resulting in an increase in network charges,

Both of these amendments relate to the so-called "price guarantee" found in clause 8 of the bill on pages five and six. In its current form the price guarantee is an illusion because the revenue envelope for the network operators is set by the Australian Energy Regulator and over the top of that the Government has said, "We are going to give an additional layer of protection for consumers, and network operator charges for 30 June 2019 will have to be lower than at 30 June 2014." But it does not state by how much they must be lower—presumably even 1¢ or \$1 will suffice. There is nothing about what the network charges will be in the years in between. The Government is trying to give an impression of consumer protection without giving the support any teeth.

Opposition amendments Nos 3 and 4 seek, within the limitations of the bill, to give some greater protection to consumers in two ways. First, amendment No. 3 requires that the network operator's total network

charge for each financial year must be lower each year between 2014 and 2019. Those years are important because that is the current regulatory period set by the Australian Energy Regulator. The Opposition does not think it is good enough to say that at the end of the period the charges must be lower than they were at the beginning; they should have to be lower each successive year. The second way the Opposition seeks to provide consumer protection relates to clause 8 (2). Under the bill the Treasurer is to request the Electricity Price Commissioner to provide a report and that is meant to form part of the basis of whether the commissioner thinks the transaction will put upward pressure on prices. But the report is focused on only one matter—that is, whether the amount of private sector investment for the purpose of acquiring an interest in the assets is likely to result in an increase in network charges.

Anyone who knows anything about commercial transactions will be aware that that cost is only one of a range of factors that could conceivably result, either by themselves or in combination, in a purchaser of the lease having to increase network charges because of the cost of the transaction. That is where Opposition amendment No. 4 comes in. It provides the second consumer protection, which is to ensure that the price commissioner's report does not reflect merely one cost to a private operator of doing business but includes each factor that may reasonably put upward pressure on network charges and what likelihood those factors, separately or together, will have of increasing network charges. We think the inclusion of these matters is vital to the price commissioner having a report that is worth even the paper it is written on. The way in which these matters are currently configured in the bill is a complete illusion. They give the appearance of doing something for consumers but in reality it is mere window dressing. The Opposition urges members to embrace Opposition amendments Nos 3 and 4.

Dr JOHN KAYE [4.03 p.m.], by leave: I move The Greens amendment No. 1 on sheet C2015-015 and The Greens amendment No. 1 on sheet C2015-016A in globo:

No. 1 Electricity price guarantee

Page 5, clause 8, line 39. Omit "30 June 2019". Insert instead "30 June 2021".

No. 1 Electricity price guarantee by authorised network operator

Insert after paragraph (a) in amendment No. 3:

- (b) the authorised network operator's total network charges for the financial year ending 30 June 2021 will be lower than the network operator's total network charges for the financial year ending 30 June 2014; and

I do not disagree with the proposals put forward by the Hon. Adam Searle with respect to Opposition amendment No. 3, which says that the charges should go down each year to the end of the regulatory reset period of the year ending 30 June 2019. I do not disagree with Opposition amendment No. 4, which says that the report should consider factors that might reasonably be seen to increase regulatory costs in the subsequent reset. However, it is most important to understand that what the Government proposes in the subject clause of this bill is utterly and completely meaningless. It would be just as good to say that a price commissioner will guarantee that the sun rises in the east and sets in the west each day—it would be just as useful.

The reality is we are talking about the amount of revenue collected by each of these transacted distribution and transmission operators, which is capped by the Australian Energy Regulator [AER] through the regulatory offset. It is interesting that the Government chose the year ending 30 June 2019, because that is when the regulatory reset period ends. The current decision of the Australian Energy Regulator is very clear. In the year ending 30 June 2014 Ausgrid was allowed to collect total revenue just shy of \$2.5 billion. Ausgrid's regulated amount for the year ending 30 June 2019 is \$1.5 billion. The outcome that the amount collected in the year ending 30 June 2019 will be less than the amount collected in the year ending 30 June 2014 is locked in by the Australian Energy Regulator.

This is truly Canute territory: It does not buy us anything. It is completely meaningless. If the Government were serious about keeping prices down, it would say that it will go beyond the regulatory reset. It knows that within the regulatory reset period the total amount of revenue collected will not increase—in fact, it will decrease by \$1 billion for Ausgrid and by a slightly lesser amount for Endeavour Energy. We know it will go down, so what is the point of putting that in legislation? If the Government had the courage of its convictions—and this Government is not known for that—it would end it in 2020 or 2021, not in 2019. It would throw forward to the next regulatory offset, when we do not know what the Australian Energy Regulator will do. I wait to see whether the Government is serious about reduced prices or is just happy to hide behind the

Australian Energy Regulator and say, "Well, that's what is happening now. We guarantee that is what is happening because the sun does indeed rise in the east and set in the west." The Government and a number of other organisations may challenge the decision of the regulator.

The Hon. Adam Searle: We will come to that.

Dr JOHN KAYE: I am informed that we will come to that, but I will foreshadow the happy arrival. It may well be that a merit review—we do not know whether the agents will seek another kind of review—will adjust the total revenue, the operating expenditure and the capital expenditure, upwards. That is possible. It might also adjust it downwards. I understand that two of the likely appellants will seek downward pressure on the total amount of revenue that can be collected. Whatever the outcome of those cases, it is almost impossible to conceive of a situation where the amount of revenue collected by these agencies would be allowed to increase beyond 2013-14. Therefore, I submit that the price guarantee period not be the year ending 30 June 2019 but the year ending 30 June 2021.

One might say that that will conflict with an AER determination, and well it might—save for one thing. The AER determination is the maximum amount of revenue that the regulator, under National Electricity Rules, will allow the agency to collect. It will be open to the Government to put into leases—I do not necessarily think this is a good idea—an amount that would be less than that. If those opposite have such courage, belief and conviction that privatisation will bring down prices and that these transactions will result in lower prices because of the epically magical nature of the private sector in delivering cheaper electricity; if they seriously believe in that particular fairy at the bottom of that particular garden, let them have the courage of saying so. Let them put their guarantee in the legislation, to June 2021. Let them extend it beyond the regulatory reset period; let them go for it.

The Greens second amendment has more or less the same effect. It is a consequential amendment that amends Labor's amendment. Apart from The Greens amendment, Labor amendment No. 4—which is also before the Committee—is the first amendment to go further. The report of the price commissioner foreseen in Labor's proposed clause 8 (2) (b)—"insert at line 8"—would be relevant only to the setting of total revenue after the next regulatory reset. That is because those factors might reasonably determine the amount of revenue set subsequently but not in this regulatory reset as it is ignorant of whatever expenditure occurs within this particular period. It may only have effect for the next regulatory reset. That is a good thing—it says we are looking forward, which is what we should be doing.

I could not think of a reasonable way of putting my next point in an amendment, but the legislation as written talks about "total charges". I questioned the Treasurer's office about this and I was informed that "total charges" means revenue collected. It is not the cents per kilowatt hour transmission and distribution user system charges, but the total amount of revenue. There is a valid and believable scenario that this could occur.

The CHAIR (The Hon. Trevor Khan): Order! Is Dr John Kaye speaking to an amendment?

Dr JOHN KAYE: Yes, I am speaking to the issue of revenue regulation and why we should reach beyond the reset period.

The CHAIR (The Hon. Trevor Khan): Dr John Kaye may continue, but I am doubtful that he is speaking to the amendments before the Committee. For instance, The Greens amendments go to the length of the period. The member is now referring to an issue that does not appear to be dealt with in his amendments.

Dr JOHN KAYE: It is certainly dealt with in Labor amendment No. 4 and it is relevant to the other amendments. I will be brief. I appreciate your guidance. The issue is if demand for electricity falls dramatically then the guarantees we are talking about here are not about price. Price could go beyond where it is now because of the way the Australian Energy Regulator operates. As we know, it sets total revenue and then the agencies come back with a set of prices to achieve that revenue. So even though the Government says it is a price commissioner, it is really a revenue commissioner and prices are effectively unregulated, particularly in an era where demand could fall dramatically. I commend The Greens amendments to the Committee.

The Hon. ADAM SEARLE (Leader of the Opposition) [4.13 p.m.]: The Labor Opposition does not support the two amendments of The Greens for the reasons outlined by Dr John Kaye. The Greens amendments seek to go outside the current regulatory period and that would lead to a conflict of laws situation. I understand and have sympathy for the policy objective, which is to underscore the illusory nature of the protections said to be provided in the Government's bill, but the amendments would be legally ineffective because they would seek to conflict, potentially, with the next regulatory determination by the Australian Energy Regulator, which, if it

set a higher regulatory envelope, may be in conflict with these provisions. I accept Dr John Kaye's argument that the regulatory envelope is a maximum charge. Nevertheless, given that the network operators will be private corporations and not State-owned corporations, that will be beyond the reach of this Parliament.

As to Opposition amendment No. 4, as I understand the reports from the price commissioner, the Government has said they will be delivered before the Government enters into the transactions. To that extent, Opposition amendment No. 4 would work with the current legislative provisions and feed into those reports that would have to be delivered by the price commissioner before the Government enters into its many transactions to give effect to the policy embedded in the legislation.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [4.14 p.m.]: The Government is in heated agreement with the Opposition. We also will not support The Greens amendments.

Dr John Kaye: See how I unite you people? I bring people together.

The Hon. DUNCAN GAY: Dr John Kaye is a great unifier. The Government opposes Opposition amendment No. 3. The successful bidder for the network leases will be required to sign a price guarantee that total network prices will be lower in 2019 than they were in 2014 and that the network provider will not be able to unilaterally increase prices outside the Australian Energy Regulator determination. We oppose Opposition amendment No 4, The Greens amendment No. 1 on sheet C2015-016A and The Greens amendment No. 1 on sheet C2015-015 for the same reasons. Although there is a variance between them, our general philosophy for opposing them is that the legislation already ensures the appointment of a price commissioner who will report to the Government to confirm that the long-term lease will not put upward pressure on prices, and without which the transactions will not go ahead.

Reverend the Hon. FRED NILE [4.16 p.m.]: The Christian Democratic Party does not support the Opposition or The Greens amendments. We congratulate the Government on introducing an Electricity Price Commissioner and on selecting the person to fill that position. As the bill states, the price commissioner "is not subject to control or direction by or on behalf of the Government in connection with any report of the Price Commissioner". I believe that independence guarantees the validity of the price commissioner and his role.

The Hon. ADAM SEARLE (Leader of the Opposition) [4.16 p.m.]: I thank all honourable members for their contributions, including Reverend the Hon. Fred Nile. The price commissioner can only report on the things he is asked to report on by Parliament. At the moment the subject matter of his report is far too narrow. It needs to be expanded to ensure that all factors that may bear on upward price pressures are captured in his report so that it has some meaning.

The CHAIR (The Hon. Trevor Khan): Order! I propose to put the questions on the amendments separately. The first question will be on The Greens amendment No. 1 on sheet C2015-016A, which seeks to amend Opposition amendment No. 3. I will then put the question in respect of Opposition amendment No. 3. If Opposition amendment No. 3 is negatived, I will then proceed to The Greens amendment No. 1 on sheet C2015-015. Finally, I will put the question on Opposition amendment No. 4.

Question—That The Greens amendment No. 1 [C2015-016A] be agreed to—put and resolved in the negative.

The Greens amendment No. 1 [C2015-016A] negatived.

Question—That Opposition amendment No. 3 [C2015-010H] be agreed to—put.

The Committee divided.

Ayes, 16

Ms Barham
Ms Cotsis
Dr Faruqi
Mrs Houssos
Dr Kaye
Mr Mookhey

Mr Pearson
Mr Primrose
Mr Searle
Mr Secord
Ms Sharpe
Mr Shoebridge

Mr Veitch
Ms Voltz
Tellers,
Mr Donnelly
Mr Moselmane

Noes, 22

Mr Ajaka
Mr Amato
Mr Blair
Mr Borsak
Mr Brown
Mr Clarke
Mr Colless
Ms Cusack

Mr Farlow
Mr Gallacher
Mr Gay
Mr Green
Mr Harwin
Mr MacDonald
Mrs Maclaren-Jones
Mr Mallard

Mrs Mitchell
Reverend Nile
Mr Pearce
Mrs Taylor
Tellers,
Mr Franklin
Dr Phelps

Pair

Mr Wong

Mr Mason-Cox

Question resolved in the negative.

Opposition amendment No. 3 [C2015-010H] negatived.

Question—That The Greens amendment No. 1 [C2015-015] be agreed to—put and resolved in the negative.

The Greens amendment No. 1 [C2015-015] negatived.

Question—That Opposition amendment No. 4 [C2015-010H] be agreed to—put and resolved in the negative.

Opposition amendment No. 4 [C2015-010H] negatived.

Dr JOHN KAYE [4.27 p.m.], by leave: I move The Greens amendments Nos 1, 2, 4 and 5 on sheet C2015-012E in globo:

No. 1 Price guarantee—the environment

Page 5, clause 8 (1) (b), line 44. Insert "and for the long term interests of the environment" after "electricity".

No. 2 Price guarantee—clean energy

Page 5, clause 8 (1). Insert after line 44:

- (c) the authorised network operator will promote investment in and the operation and use of renewable energy technology, energy storage technologies, energy efficiency, demand management and demand responsiveness, and

No. 4 Price guarantee—no unreasonable charges in connection with renewable energy

Page 6, clause 8 (1). Insert before line 3:

- (e) the authorised network operator will not impose any unreasonable charge on any customer that is detrimental to the customer for the installation or use of any lawfully connected renewable energy source or renewable energy storage, and

No. 5 Price guarantee—no additional charges for connection of generator

Page 6, clause 8 (1). Insert before line 3:

- (f) the authorised network operator will not impose an additional charge on a customer for any connection of a generator of less than 10 kilowatt capacity to the grid beyond the reasonable fees associated with metering and the physical work of creating the connection, as determined by the Independent Pricing and Regulatory Tribunal (despite any determination of the AER or any other regulator).

These amendments relate to renewable energy. I note with interest the speech that the Hon. Daniel Mookhey made during the second reading stage, in which he canvassed concerns similar to those raised by The Greens. The specific point is that the Government is not simply privatising the electricity industry and collecting a bunch of cash. It is also giving away control of the future of the electricity industry. That raises serious regulatory

issues that have been dealt with in the past on the basis of public ownership in sections 20N, 20O and 20P of the State Owned Corporations Act 1989, which gives power to the State Government to deal with matters that are outside its normal regulatory purview but which can be dealt with by means of ownership.

That ownership is entirely surrendered for a period of 99 years, without a regulatory framework that is fit and adjusted to the massive changes that are about to overtake the electricity industry. The Greens amendments Nos 1, 2, 4 and 5 seek to fill those holes at least partially. I cannot say that these amendments really solve the problem but they go some way towards a solution. Amendments Nos 1 and 2 insert a requirement for the Treasurer to ensure the price guarantee will have the effect that decisions are made in the long-term interests of the environment and that "the authorised network operator will promote investment in and the operational use of renewable energy technology, energy storage technologies, energy efficiency demand management and demand responsiveness".

Amendment No. 4 ensures that the price guarantee includes that "the authorised network operator will not impose any unreasonable charge on any customer that is detrimental to the customer for the installation or use of any lawfully connected renewable energy source or renewable energy storage". Amendment No. 5 inserts:

... the authorised network operator will not impose an additional charge on a customer for any connection of a generator of less than 10 kilowatt capacity to the grid beyond the reasonable fees associated with metering and the physical work of creating the connection, as determined by the Independent Pricing and Regulatory Tribunal (despite any determination of the AER or any other regulator).

IPART is the perfect vehicle because it is being used in 2015. Other matters will surely arise over the next 20 years as energy technology changes. We are in a period of massive change in energy technology. These amendments have included just the ones The Greens are aware of now, but we may have missed some and there will be others in the future. This is not an excuse for voting against the legislation but these amendments try to fill a hole in the legislation to create some regulated space for new technologies that are emerging.

As the Hon. Daniel Mookhey pointed out in his contribution to the second reading debate, this Parliament is handing over to the private sector the capacity to say what energy sources are connected and how they are connected. These amendments seek to make sure that power is not used against the future of renewable energy. There are good reasons for this, as outlined by members of The Greens on many occasions. They go beyond the critical issue of reducing greenhouse gas emissions and go to generating new industries and new jobs, particularly in rural and regional New South Wales. I know this is a matter that is very close to the heart of the Hon. Ben Franklin. They also go towards ensuring that Australia and New South Wales are world leaders and not world followers, and that we can develop export industries to bring new jobs to rural and regional New South Wales. Critically, they go to ensuring that we can bring down the amount of money spent on electricity bills.

Energy bills over the next 20 years will only be controlled by the use of renewable energy and storage and other demand-side management techniques and responsiveness. There might also be other technologies yet to be thought of that will enable consumers to reduce their reliance on the network, to reduce peak loads on the network, to reduce the need for networks in many situations and to allow the network to be used in ways we do not yet fully understand. These new ways generally fall under the term of smart grid.

These are critical amendments that ensure that the Treasurer has to take these matters into account when the leases and licences are written. They ensure that the Treasurer has a complete vision of the current range of technologies that could be disadvantaged by a private operator only interested in maximising profit. These operators may not care about the overall benefit for the people of New South Wales. These amendments are not comprehensive as it is not possible to be comprehensive. That is why we should maintain public ownership. In the absence of maintaining public ownership, these amendments go some distance towards ensuring that the Treasurer has some view of these critical issues. I commend The Greens amendments Nos 1, 2, 4 and 5 to the Committee.

The Hon. ADAM SEARLE (Leader of the Opposition) [4.34 p.m.]: The Opposition supports The Greens amendments Nos 1, 2, 4 and 5. The Opposition is committed to growing renewable energy as an overall proportion of the total energy mix. These amendments are a small safeguard against the new private network operators impeding the development of those technologies and energy sources. As the previous speaker outlined, they are only a small step in that direction but every step is important.

These amendments are also important because we do not know what regulatory or other concessions the Government may make to the purchaser of the network. We know technology is changing. An example is the Tesla battery, which is in its first iteration. This technology may well develop in leaps and bounds and threaten the viability of the network in its current form. It is unlikely a purchaser is going to stump up billions of dollars when in the space of a decade or perhaps a decade and a half the value of the asset will be rendered nugatory. In the absence of having all the details of the transaction publicly available we think these safeguards are important to ensure that new technologies providing for renewable energy are allowed a small space in which to grow.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [4.36 p.m.]: The Government opposes these amendments although we were shocked to see the Leader of the Opposition agreeing with the tenor of one of the reasons we are moving to put this lease in place. The environmental issue should be dealt with by environmental legislation and not by contractual arrangements to ensure that the policies can be modified over time in the right forum to deal with the emerging issues within the environment. That is the Government's reason for opposing Greens amendments Nos 1 and 2. The Government opposes amendments Nos 4 and 5 because the National Electricity Rules govern access terms and require the networks to make an offer to connect on fair and reasonable terms—in other words, it is already covered.

Question—That The Greens amendments Nos 1, 2, 4 and 5 [C2015-012E] be agreed to—put.

The Committee divided.

Ayes, 17

Ms Barham	Mr Mookhey	Mr Shoebridge
Mr Buckingham	Mr Pearson	Mr Veitch
Ms Cotsis	Mr Primrose	Ms Voltz
Dr Faruqi	Mr Searle	<i>Tellers,</i>
Mrs Houssos	Mr Secord	Mr Donnelly
Dr Kaye	Ms Sharpe	Mr Moselmane

Noes, 22

Mr Ajaka	Mr Farlow	Mrs Mitchell
Mr Amato	Mr Gallacher	Reverend Nile
Mr Blair	Mr Gay	Mr Pearce
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mr Harwin	<i>Tellers,</i>
Mr Clarke	Mr MacDonald	Mr Franklin
Mr Colless	Mrs Maclaren-Jones	Dr Phelps
Ms Cusack	Mr Mallard	

Pairs

Mr Wong

Mr Mason-Cox

Question resolved in the negative.

The Greens amendments Nos 1, 2, 4 and 5 [C2015-012E] negatived.

Dr JOHN KAYE [4.45 p.m.]: I move The Greens amendment No. 3 on sheet C2015-012E:

No. 3 **Price guarantee—no disconnection charge**

Page 6, clause 8 (1). Insert after line 2:

- (d) the authorised network operator will not charge any customer a fee for the disconnection of a service (despite any determination of the AER or any other regulator), and

This stops the authorised network operator from charging customers for disconnection of a service. I raise the case of what is happening in Western Australia at the moment. Two power networks are charging solar owners

\$300 for doing nothing at all. It is very clear that under private networks there is a specific attack on users of renewable energy. The concern is that as network charges go up there will be individuals who wish to disconnect. As solar panels and storage become cheaper, the standalone option becomes cost effective for ever-increasing classes of customers. Our concern is that a private network operator will seek to recover revenue from those who seek to disconnect and go it alone. People should be allowed to disconnect and not be trapped into a privately owned network that seeks to gouge them. I commend The Greens amendment No. 3 to the Committee.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [4.47 p.m.]: The Government opposes The Greens amendment No. 3. A comprehensive regulatory regime already applies to distribution services under the National Energy Customer Framework. That is the appropriate structure to manage these charges.

Dr JOHN KAYE [4.48 p.m.]: Regarding the National Energy Customer Framework that the Minister keeps referring to, I draw the Minister's attention to a *Climate Spectator* investigation that uncovered the fact that two Victorian private sector power network distributors, CitiPower and Powercor, have been rorting solar owners for several years by charging them more than \$300 while not actually undertaking what they are charging for. It is clear that private owners will seek to extract charges from individuals, particularly when those individuals seek to disconnect from the network.

The Hon. ADAM SEARLE (Leader of the Opposition) [4.49 p.m.]: The Opposition will support The Greens amendment No. 3.

Question—That The Greens amendment No. 3 [C2015-012E] be agreed to—put.

The Committee divided.

Ayes, 17

Ms Barham	Mr Mookhey	Mr Shoebridge
Mr Buckingham	Mr Pearson	Mr Veitch
Ms Cotsis	Mr Primrose	Ms Voltz
Dr Faruqi	Mr Searle	<i>Tellers,</i>
Mrs Houssos	Mr Secord	Mr Donnelly
Dr Kaye	Ms Sharpe	Mr Moselmane

Noes, 22

Mr Ajaka	Mr Farlow	Mrs Mitchell
Mr Amato	Mr Gallacher	Reverend Nile
Mr Blair	Mr Gay	Mr Pearce
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mr Harwin	
Mr Clarke	Mr MacDonald	<i>Tellers,</i>
Mr Colless	Mrs Maclaren-Jones	Mr Franklin
Ms Cusack	Mr Mallard	Dr Phelps

Pair

Mr Wong

Mr Mason-Cox

Question resolved in the negative.

The Greens amendment No. 3 [C2015-012E] negatived.

The Hon. ADAM SEARLE (Leader of the Opposition) [4.56 p.m.]: I move Opposition amendment No. 5 on sheet C2015-010H:

No. 5 **Electricity price guarantee—referral by Price Commissioner**

Page 6. Clause 8. Insert after line 11:

- (3) The Price Commissioner may refer any matters of concern regarding the activities or behaviour of any authorised network operator to the Australian Competition and Consumer Commission.

One of the many commitments made by the Premier in advance of the legislation, and I think even in advance of the election, was that the Price Commissioner, appointed by his Government, would have the power to refer matters of concern to the Australian Competition and Consumer Commission [ACCC]. The legislation completely fails to mention this facility altogether. The Price Commissioner, as conceived by the Government in its bill, has no power in this respect. We put forward the amendment to give the public greater protection.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [4.57 p.m.]: The Government opposes this amendment given that the Australian Energy Regulator and the ACCC already have well-defined regulatory functions and those functions will continue unhindered by the transaction, and that the Price Commissioner is always free to refer matters to either body.

Dr JOHN KAYE [4.57 p.m.]: If that is the case then no harm is done by this amendment, but it removes any doubt that that would be the case. Therefore, The Greens support the amendment.

The Hon. ADAM SEARLE (Leader of the Opposition) [4.57 p.m.]: It is quite clear the Price Commissioner is a statutory creature with only such powers as are expressly or impliedly conferred on it by the Parliament. There is no necessary function of referring matters to the ACCC inherent in the nature of the Price Commissioner. I therefore do not believe that the Price Commissioner would have that discretion as assumed by the Leader of the Government. If an amendment of this nature is unnecessary, why did the Premier make a commitment in public that his Price Commissioner would have this power? We only want the Government to keep the commitment it made to the public.

Question—That Opposition amendment No. 5 [C2015-010H] be agreed to—put and resolved in the negative.

Opposition amendment No. 5 [C2015-010H] negatived.

The Hon. ADAM SEARLE (Leader of the Opposition) [4.59 p.m.]: I move Opposition amendment No. 6 on sheet C2015-010H:

No. 6 **No review of AER final determination**

Page 6. Insert after line 35:

9 No review of certain AER final determination

- (1) An interested party must not bring or maintain any challenge against any determination of the AER published on 30 April 2015 in respect of Endeavour Energy, Ausgrid or TransGrid that seeks higher revenue for the interested party.
- (2) In this section, *interested party* means Networks NSW, Endeavour Energy, Ausgrid and TransGrid.

The purpose of this amendment is to ensure that the State-owned corporations cannot maintain the challenge they have brought to the Australian Energy Regulator's final determination. The Government, hiding behind the State-owned electricity companies, is trying to boost the privatisation price by keeping power prices high. The Government is backing higher power prices for families and for small businesses across this State and is going to court to appeal the determination of the Australian Energy Regulator [AER].

Under the regulator's final determination in its current form households across New South Wales are set to receive an average bill reduction of between \$165 and \$313 each year. Small businesses stand to receive reductions of up to \$523 per year; household savings for Essential Energy customers will be \$313 each year; savings for Endeavour Energy customers are expected to be of the order of \$106; and savings for Ausgrid customers are expected to be \$165 each year. For small businesses Essential Energy customers stand to save \$523, Endeavour Energy customers \$152, and Ausgrid customers \$264. Simply put, lower power bills help families that are struggling to make ends meet and reduce the cost burden for small businesses.

This amendment will help small businesses grow and employ more people as well as help families meet rising electricity costs. Higher electricity prices for families will mean that this Government will achieve a higher sale price for the electricity companies. The Liberal-Nationals Coalition is more interested in fattening the electricity businesses for sale than in lowering power prices for the people of this State. I remind members of the Premier's press release dated 10 June 2014 entitled "Turbocharging the Economy." One of the commitments made as the Premier and his Government headed to the election was a 1 per cent discount off the regulated

electricity prices set for the regulatory period. That is not in this legislation. There is no such discount as promised by the Premier ahead of the election. That commitment was not kept but worse, the Government, hiding behind the State-owned corporations, is now seeking to challenge the AER determination to drive up power prices by charging higher network costs than the AER has determined.

The Premier and this Government not only are not keeping their election commitment about a 1 per cent discount off the regulated power prices but also are moving hell for leather in the other direction seeking to drive up power prices for families and businesses in this State. That is not good enough and it is not in the public interest. The Labor Party makes no apologies for supporting what is in the public interest. I urge all members in this place who say they are committed to driving down power prices to support this amendment.

The power companies are hiding behind the argument about public safety and they are saying that they need more revenue to ensure public safety. The truth is that the AER determination makes it quite clear that these safety measures should be borne by the shareholders. This Government says that that should be borne by consumers, levying a tax on the more than eight million power customers across New South Wales, which is not good enough. The Opposition has moved this amendment to ensure that families, households and businesses across this State get lower power prices through lower network charges as determined by the AER.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [5.03 p.m.]: The Government opposes this amendment, given that the rights of review are part of the regulatory regime applying to network businesses and that these arrangements apply irrespective of whether or not the businesses are transacted. In addition, TransGrid has determined not to appeal the AER decision and Networks NSW has determined to appeal the AER decision in order to ensure continued reliability and safety—something that Opposition members seem to believe is unnecessary.

Dr JOHN KAYE [5.04 p.m.]: The Greens will not be supporting this amendment as we have grave concerns about the determination of the Australian Energy Regulator [AER]. Members will be aware that for Endeavour Energy and Ausgrid 1,356 jobs are at stake. If Endeavour Energy and Ausgrid are not able to appeal there will be a loss of 1,356 jobs. The very least we can do for those power workers, the lines people, the call centre workers and others is to allow the merits of the Australian Energy Regulator's determination to be tested in court. We have used two terms "price" and "bill" interchangeably in this Chamber—something that we probably should not do.

We have used those terms as though they are interchangeable when they are not. The word "bill" is a product of the word "price" plus "quantity". There are other ways of protecting households—something that we did in relation to the carbon price. Labor members supported the carbon price which pushed up electricity prices. However, the idea was that it would bring down total bills because people would respond by reducing their consumption. That is not a myth; that really happened and we have seen substantial improvements in energy efficiency. If we are interested in protecting household bills we should be talking about energy efficiency, rooftop solar, energy storage and other new technologies that will enable consumers to manage their demand and reduce total bills.

The way to reduce bills is not to devastate the workforce, which is exactly what the AER's determination will do, particularly with respect to the operational expenditure that is allowed. I do not think The Greens could stand by and watch 1,356 electricity industry workers lose their jobs without the ability to at least appeal the decision and protect their jobs. The Greens do not support this amendment.

The Hon. ADAM SEARLE (Leader of the Opposition) [5.06 p.m.]: The Australian Energy Regulator [AER] does not determine the employment or staffing levels of any of the network operators; it sets the revenue envelope. We understand that that determination will have an impact on jobs. However, it is also clear that the management of Networks NSW, the network operators, is proposing to strip out of its organisations job levels far in excess of what is needed. It has been clear for a while—and it is clear in the op-ed piece by Vince Graham, Chief Executive Officer of Ausgrid in September last year that he hand-delivered to the select committee inquiry—that there has been a calculated course of conduct by the management of these companies to slim them down for privatisation. What is being proposed by the management of these companies is in excess of what is necessary to meet the AER challenges that are posed by the final determination.

We should not fall into the trap set by Mr Graham or by the Government on this matter. The two matters are not coterminous. It is clear that those companies will shed jobs irrespective of the outcome of this proposal. These appeals will mean that they will seek to grow the revenue envelope that they can charge

their customers while still downsizing, which will fatten the pig for market. It will fatten the profit margins for these businesses, fatten the purchase price and fatten the price that the Government will be able to achieve for these assets. Do not fall into the trap set by the Government or by the management of the network operators.

This is not about jobs; it is about power prices charged to customers, small businesses and families across New South Wales. There are other contestable markets that these companies could get into apart from the construction of the national broadband network. I was talking to power workers at one of the network operations that has identified contestable markets interstate for which its organisation could bid should the management of those companies choose to turn their minds in that direction—to revenue sources, potential markets not caught by the AER regulation and new markets for work that these businesses could seek out and obtain. No doubt the current management is not seeking out these markets because it does not want to get in the way of its mates at the big end of town who will soon be the owners of these network operations. No doubt once these companies are privately operated or their businesses are privately operated they will seek out new areas of work.

The Hon. Catherine Cusack: Did you brainstorm this with Tom Clancy, Adam? It is very complicated.

The Hon. ADAM SEARLE: I acknowledge that interjection. If the Hon. Catherine Cusack wishes us to be here all night, no doubt we will be. We can take these amendments one by one and divide on every one of them. If Government members keep interjecting we will be here all night. This is a serious matter and Government members are trying to make light of it. This is about driving down power prices; it is not about the furphy of jobs.

Dr JOHN KAYE [5.11 p.m.]: There is some sense in what the Hon. Adam Searle said. It is true that one way of protecting some of the jobs that would be lost would be to move back into contestable markets, such as installing substations in the basement of large high-rise developments, getting involved with the National Broadband Network and other remarkable construction skills—

The Hon. Adam Searle: Meter reading.

Dr JOHN KAYE: And meter reading. There are a number of areas in which they could do that. The sad reality with which we are faced is that the Government is refusing to do that. I put that to the Government at the upper House inquiry and the Premier and the Treasurer made it clear that they were not interested in doing that. They were not going to grow the business; they were selling a regulated business and that was all they were going to sell. They were not interested in protecting jobs. To that extent, I agree with the Hon. Adam Searle. However, a 30 per cent reduction in opex for Ausgrid and a 25 per cent reduction in opex for Endeavour will not happen without substantial job losses. Even if we were to get those undertakings back into the contestable market and do work such as installing substations and electricity works on private property for which they are well qualified and which would be cost-effective, there would still be substantial job losses. By not allowing the appeal against the Australian Energy Regulator to go ahead we are denying those workers a chance to fight for their jobs.

The Hon. ADAM SEARLE (Leader of the Opposition) [5.13 p.m.]: The figures quoted by Dr John Kaye are not mandatory—that is, the Australian Energy Regulator sets the overall revenue envelope. Those figures are from benchmarks that are contained in the final determination and are for guidance only; they are not mandatory. The companies can set their own opex and capex spending patterns. I acknowledge the member's concerns but the Opposition makes no apologies for being the only political party in this place that is willing to fight for lower power prices for small businesses and families across this State.

Question—That Opposition amendment No. 6 [C2015-010H] be agreed to—put.

The Committee divided.

Ayes, 11

Ms Cotsis
Mrs Houssos
Mr Mookhey
Mr Pearson

Mr Primrose
Mr Searle
Ms Sharpe
Mr Veitch

Ms Voltz
Tellers,
Mr Donnelly
Mr Secord

Noes, 26

Mr Amato	Mr Farlow	Mrs Maclaren-Jones
Ms Barham	Dr Faruqi	Mrs Mitchell
Mr Blair	Mr Gallacher	Reverend Nile
Mr Borsak	Mr Gay	Mr Pearce
Mr Brown	Mr Green	Mr Shoebridge
Mr Buckingham	Mr Harwin	Mrs Taylor
Mr Clarke	Dr Kaye	<i>Tellers,</i>
Mr Colless	Mr MacDonald	Mr Franklin
Ms Cusack	Mr Mallard	Dr Phelps

Pairs

Mr Moselmane	Mr Ajaka
Mr Wong	Mr Mason-Cox

Question resolved in the negative.

Opposition amendment No. 6 [C2015-010H] negatived.

The Hon. ADAM SEARLE (Leader of the Opposition) [5.21 p.m.]: I move Opposition amendment No. 7 on sheet C2015-010H:

No. 7 Independent review of Deloitte Access Economics report

Page 6. Insert after line 35:

9 Independent review

- (1) The Treasurer must commission and publish an independent review of the Deloitte Access Economics report entitled "Economic Impact of State Infrastructure Strategy—Rebuilding NSW" published in November 2014.
- (2) The Treasurer must commission and publish an independent analysis of the impact of the authorised transactions on the State Budget.
- (3) The Treasurer must commission and publish an independent analysis of the impact of any authorised transactions entered into, and the collective impact of one or more such authorised transactions entered into, on the State Budget on each of the following dates:
 - (a) one year after the relevant transaction, or the last of the relevant transactions, was entered into,
 - (b) 5 years after the relevant transaction, or the last of the relevant transactions, was entered into,
 - (c) 10 years after the relevant transaction, or the last of the relevant transactions, was entered into.
- (4) The Treasurer must commission and publish an independent review, including consultation with stakeholders, of the powers of the New South Wales Electricity Price Commissioner engaged under section 8 within 12 months of the completion of the first authorised transaction.

This amendment picks up on one of the recommendations in the select committee report that calls for an independent review of the Deloitte Access Economics report entitled "Economic Impact of State Infrastructure Strategy—Rebuilding NSW", published in November 2014. Members may recall that the robustness and reliability of that report was called into question to such an extent that even the Government members of the committee supported having a review of this document, which forms the foundation for so many of the Government's spurious claims for this transaction.

It not only picks up on that recommendation of the committee report—a unanimous recommendation, as I recall it—but also picks up on the fact, as I identified in my second reading contribution, that no-one has done an analysis of the impact of the proposed authorised transactions on the New South Wales State budget.

That work should be done by Treasury. No explanation was forthcoming during the inquiry process or subsequently as to why Treasury has not done that analysis. Equally, we think an independent analysis would give the community greater security and greater peace of mind about the robustness—

The Hon. Greg Donnelly: Point of order: There is too much audible conversation in the Chamber.

The CHAIR (The Hon. Trevor Khan): Order! There is too much audible conversation in the Chamber.

The Hon. ADAM SEARLE: Not only should there be an independent review of the Deloitte Access Economics report but also an independent review of the impact of the transaction on the State budget, for the reasons outlined in my second reading contribution. There is no good reason not to embrace this amendment unless, of course, the Government wants to hide the truth from the people of New South Wales.

Reverend the Hon. FRED NILE [5.24 p.m.]: I urge all members to vote against Opposition amendment No. 7. That same ground is covered in the Christian Democratic Party amendments Nos 1 and 2 which reflect the recommendations of the committee. Labor amendment No. 7 adds the two items in Christian Democratic Party amendments Nos 1 and 2, but it includes some other extraneous matters which I do not believe are relevant to this debate. I urge all members to vote against Opposition amendment No. 7 and to agree to Christian Democratic Party amendments Nos 1 and 2.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [5.25 p.m.]: I accede to the Reverend the Hon. Fred Nile's suggestion. The Government will oppose this amendment and the Government will agree to Christian Democratic Party amendments Nos 1 and 2 regarding an independent review of the Deloitte report and a review of the price commissioner after one year.

The Hon. CATHERINE CUSACK (Parliamentary Secretary) [5.25 p.m.]: Earlier the Hon. Adam Searle purported to represent the views of Government members on the committee. I know that this will come as a tremendous shock to members in this Chamber, but Government members reject the way their views were characterised by the Hon. Adam Searle. I will not prolong the debate but I ask him not to attempt to articulate the views of the Government members on that committee.

The Hon. ADAM SEARLE (Leader of the Opposition) [5.26 p.m.]: This matter is empirically outlined in the minutes of the deliberations of the committee which were published with the report. I do not purport to speak for Government members but I am pretty sure that the notion of an independent review of the Deloitte report was their idea.

The Hon. Dr Peter Phelps: That is not correct—you amended the original draft report.

The Hon. ADAM SEARLE: I acknowledge the interjection.

The CHAIR (The Hon. Trevor Khan): Order! Members should not respond to interjections. We are moving away from a debate on the amendment and on to superfluous material. Members should restrict their remarks to the amendment before the Committee.

The Hon. ADAM SEARLE: On the issue of extraneous matters, I was astonished to hear from one of the contributors that the notion of an independent analysis of the impact of the transaction on the State budget was an extraneous matter of no relevance at all. I would have thought whether or not these transactions would have an impact on the revenues and expenses of New South Wales would be a matter of central importance when we are contemplating a transaction of this size and importance. I acknowledge that this amendment goes further than the committee report. I am heartened that Reverend the Hon. Fred Nile thinks that amendments to the legislation should—and I hope I am quoting him correctly—"reflect completely the committee report". I look forward to debating that and other issues as we proceed through the Committee stage.

Dr JOHN KAYE [5.28 p.m.]: The Greens do not oppose Opposition amendment No. 7. However, we make the observation that if this amendment succeeds—let us suppose there is a review of the Deloitte Access Economics report, a study about the impacts on the budget one, five or 10 years later, and a study on whether or not the price commissioner is effective—it will all be too late. It will be looking back at a transaction after it has occurred. It is useful, interesting information and I am sure history will thank us for recording it. But history will

not thank this Chamber, this Parliament or this Government for privatising the electricity industry in the first place. There is little to be gained from voting against this amendment. However, I make the point again that it will do nothing to ameliorate the damage being done by the electricity privatisation this bill effects.

Question—That Opposition amendment No. 7 [C2015-010H] be agreed to—put and resolved in the negative.

Opposition amendment No. 7 [C2015-010H] negatived.

Reverend the Hon. FRED NILE [5.30 p.m.]: I move Christian Democratic Party amendment No. 1 on sheet C2015-008H:

No. 1 Independent review of economic impact report

Page 6. Insert after line 35:

9 Independent review of economic impact report

As soon as reasonably practicable after the commencement of this Act, the Treasurer must commission and publish an independent review of the Deloitte Access Economics report entitled "Economic Impact of State Infrastructure Strategy—Rebuilding NSW" published in November 2014.

This amendment delivers on the recommendation made by the Legislative Council Select Committee on the Leasing of Electricity Infrastructure, which I chaired. The Government has relied heavily on the economic modelling done by Deloitte Access Economics, which forecast a \$300 billion uplift to the economy. However, the committee noted that it was "concerned about suggestions that the evidence underpinning the Government's claimed \$300 billion boost—the Deloitte Access Economics report—is not robust". Given the importance of this \$300 billion economic boost to the Government's case for reform, the report should be subject to an additional layer of scrutiny. It is important that its assumptions, methodology and conclusions be reviewed so we can be sure that the predicted \$300 billion benefit is correct.

This amendment requires the Treasurer to commission and publish an independent review of the report as soon as reasonably practicable. In addition, the Government has committed to commission the review before the legislation is enacted. This amendment ensures that happens, and I urge members to support it. The amendment arose from the committee investigation of the leasing proposal. If it is passed, we will then proceed to the next amendment dealing with the other recommendations regarding the powers of the price commissioner.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [5.32 p.m.]: The Government accepts this amendment. While the Government stands by the Deloitte Access Economics report and its prediction that the transaction will result in a \$300 billion economic uplift, it is happy to have the work reviewed and scrutinised appropriately. Under this amendment, the Treasurer will be required to commission and publish an independent review of the Deloitte report as soon as reasonably practicable. The Government has committed to commission the review before the legislation is enacted, and it will do so.

The Hon. ADAM SEARLE (Leader of the Opposition) [5.32 p.m.]: Not wishing to be churlish, the Opposition also supports the amendment.

Dr JOHN KAYE [5.33 p.m.]: The Greens will not oppose this amendment, but there is no enthusiasm for it. I make three observations. My first observation is that the review should be done before the Parliament agrees to the legislation, not after it is passed. That will be too late. What exactly does the mover of this amendment propose to do if the report finds that the \$300 billion economic uplift predicted by Deloitte Access Economics over the next 30 years will not happen?

Mr David Shoebridge: Don't worry, John, the Premier will rewrite the report.

Dr JOHN KAYE: I acknowledge the assistance provided by Mr David Shoebridge.

The Hon. Catherine Cusack: Point of order: Mr David Shoebridge's interjection is an adverse reflection on a member of the other place—that is, the Premier. I was prepared to let it go until Dr John Kaye acknowledged it and it went on the record. I ask that Mr David Shoebridge be directed to withdraw.

Dr JOHN KAYE: To the point of order: I am in a difficult position because I cannot withdraw an acknowledgment of something; it is too late for me to do that.

The Hon. Catherine Cusack: I am not asking you to withdraw.

Dr JOHN KAYE: There is nothing to withdraw. I cannot "unacknowledge" something.

Reverend the Hon. Fred Nile: Put it in *Hansard* that you withdrew it.

Dr JOHN KAYE: I cannot withdraw something I did not say.

The Hon. Catherine Cusack: I am not asking you to withdraw; I am asking Mr David Shoebridge to withdraw.

The Hon. Michael Gallacher: Apologise for acknowledging a disorderly interjection.

Dr JOHN KAYE: I was about to say it myself anyway.

The CHAIR (The Hon. Trevor Khan): Order! I did not hear the interjection. I suggest that members refrain from interjecting and ignore any interjections.

Dr JOHN KAYE: I appreciate that ruling. I was asking what the point was of this amendment, which the Government is supporting enthusiastically. What will happen if the report finds that the uplift will be significantly less than \$300 billion? I imagine there will be some crocodile tears, but by that stage it will be too late. We will not be able to go back to the lessees and say, "Sorry, we based this on a false assumption about the impact on the State economy. We will have to cancel the transaction." That will not happen. The reality is that this is tantamount to worrying about the gate after the horse has bolted. My second concern is that this is only part of the story. The Deloitte Access Economics report was scrutinised, but that is not our only concern. We are also concerned about the way in which the \$300 billion will translate into revenue collected by the State. Treasury officials told us that that was okay because any uplift in gross State product would translate into revenue collection at a ratio of 12.8 per cent.

The CHAIR (The Hon. Trevor Khan): Order! Dr John Kaye should speak to the amendment before the Committee. He is straying into other matters that are extraneous to the amendment. I draw the member back to the Christian Democratic Party's amendment, which seeks to establish an independent review of the Deloitte Access Economics report.

Dr JOHN KAYE: I seek your guidance, Mr Chair. I was trying to point out the deficiency in this amendment in that it does not go to the next stage and ask what would be the impact on the State budget.

The Hon. Catherine Cusack: Point of order—

Dr JOHN KAYE: I am seeking guidance from the Chair. I am not sure the Hon. Catherine Cusack can take a point of order on my seeking guidance.

The Hon. Catherine Cusack: Dr John Kaye has indicated that he supports the amendment, but he is now speaking against it.

Dr JOHN KAYE: To the point of order: I was not speaking against the amendment. It is logically consistent to say that I do not oppose the amendment—I did not say that I supported it—but then to point out its weaknesses. That falls under the right of free speech afforded to members of this Chamber.

The CHAIR (The Hon. Trevor Khan): Order! I do not uphold the point of order. However, I ask Dr John Kaye to restrict his comments to the amendment before the Committee.

Dr JOHN KAYE: My specific concern—

Reverend the Hon. Fred Nile: Members should not use hypotheticals.

Dr JOHN KAYE: Is Reverend the Hon. Fred Nile taking a point of order?

The CHAIR (The Hon. Trevor Khan): Order! Dr John Kaye should not respond to interjections.

Dr JOHN KAYE: One of my concerns is that this amendment does not close the loop; it goes only part of the way by looking at the impact of the transaction on the State economy but not on the State budget. The Government is using the 12.8 per cent figure and is saying it will translate through to the budget from the economy. That is simplistic in the extreme, particularly given that the proposed \$300 billion uplift might not occur uniformly across the economy. Worse still, it might not occur in the area of the economy that the State taxes. My third concern about this amendment is that it fails entirely to recognise that when a report is written for a government, the government gets what it wants.

We saw that with the UBS report and a number of other reports. In fact, the upper House select committee proceedings became quite tedious as we heard again and again the opinions that the Government had paid for with a lot of taxpayers' money. That concerns me because the Treasurer has to commission and publish this independent review. I would be happier for an independent body to commission an independent review than for the Treasurer to find yet another Government mate or client at the big end of consulting town to produce yet another report. That being said, this amendment is better than nothing at all. I put on the record that I would not be at all surprised if yet another one of the big consulting firms gave another consulting firm a tick for one of their clients, the State Government.

Question—That Christian Democratic Party amendment No. 1 [C2015-008H] be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendment No. 1 [C2015-008H] agreed to.

Reverend the Hon. FRED NILE [5.40 p.m.]: I move Christian Democratic Party amendment No. 2 on sheet C2015-008H:

No. 2 **Post-transaction independent review**

Page 6. Insert after line 35:

9 Post-transaction independent review

Within 12 months after completion of the last authorised transaction under this Act, the Treasurer is to commission and publish an independent review that:

- (a) reviews the powers of the Price Commissioner under this Act (with the view to include consultation with stakeholders), and
- (b) determines whether network charges have increased as a result of the authorised transactions.

This amendment requires the New South Wales Government—again on the recommendation of the Legislative Council inquiry—to commission an independent review, including consultation with stakeholders, of the powers of the Electricity Price Commissioner within 12 months of the leasing of electricity infrastructure. The committee raised some concerns about Professor Fels' role once the transactions are completed and how exactly the commissioner's powers will work in practice. The committee recommended that the New South Wales Government undertake, in consultation with key stakeholders, a review of the powers of the Electricity Price Commissioner, with this review conducted within 12 months of the leasing of electricity infrastructure.

This amendment requires the Government to review the powers given to the price commissioner under this Act. The review will be required within 12 months after the completion of the last transaction under this Act. It will also determine whether network charges have increased as a result of the proposed transactions. As I said, this amendment came about following all the consideration of the Legislative Council select committee inquiry. I urge all members to support this amendment, as they did the previous amendment.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [5.41 p.m.]: The Government supports the Christian Democratic Party amendment. This amendment delivers on the recommendation of the Legislative Council inquiry that the New South Wales Government commission an independent review, including consultation with stakeholders, of the powers of the Electricity Price Commissioner within 12 months of the leasing of electricity infrastructure. The committee further recommended that the New South Wales Government undertake, in consultation with key stakeholders, a review of the powers of the Electricity Price Commissioner, with this review conducted within 12 months of the

leasing of the electricity infrastructure. We think that is appropriate. This review will be required within 12 months after the completion of the last transaction under this Act. It will also determine whether network charges have increased as a result of the transaction. We are sure that this will not be the case.

The Hon. ADAM SEARLE (Leader of the Opposition) [5.42 p.m.]: The Opposition does not oppose the amendment. We are not sure how effective a review of the powers of the price commissioner will be, given that his chief function in the legislation so far is to determine whether transactions are likely to lead to an increase in network costs before the transaction is entered into. Once he has done that, the transactions will be entered into. They will be up and running, and no amount of reviewing his powers will change that fact. However, this amendment appears to do no harm and it is conceivable that it may do some good in the fullness of time, so we do not oppose it.

Dr JOHN KAYE [5.43 p.m.]: The Greens do not oppose this amendment. We are pleased to see the Government relying on the recommendations of the select committee to justify support for this amendment. We hope that that is a consistent position from the Government. The process covered by this amendment will occur too late. It will gather useful information and there are sure to be many press releases from the report, but in the end we have to ask what it will do. How will it change the transaction? How will it change electricity prices in New South Wales? How will it unscramble the egg that privatisation scrambles? The answer is that it will not. Nonetheless The Greens will not oppose the amendment.

Question—That Christian Democratic Party amendment No. 2 [C2015-008H] be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendment No. 2 [C2015-008H] agreed to.

Dr JOHN KAYE [5.45 p.m.], by leave: I move The Greens amendments Nos 6 and 7 on sheet C2015-012E in globo:

No. 6 Transaction arrangements not to seek to prevent, or create right to compensation for, certain changes

Page 6. Insert after line 35:

9 Transaction arrangements not to seek to prevent, or create right to compensation for, certain changes

The Treasurer must ensure that the transaction arrangements for an authorised transaction are such that they do not seek to prevent, or create any right to compensation for, any of the following future changes or developments:

- (a) changes to laws of the State with respect to the regulation of electricity supply (including for the purposes of any free trade or other international agreement to which Australia is a party),
- (b) changes to licences or other regulatory instruments relating to electricity supply under the laws of the State,
- (c) changes to the environment protection legislation (within the meaning of the *Protection of the Environment Administration Act 1991*),
- (d) changes in the demand for electricity in the State,
- (e) technological developments that reduce the amount of energy used in the State,
- (f) changes in Government policies that have the effect of changing the demand for, or the usage of, electricity in the State,
- (g) changes in costs or other economic inputs, whether or not they are affected by Government policy.

No. 7 Transaction arrangements to prevent use of investor-state dispute settlement

Page 6. Insert before line 36:

10 Transaction arrangements to prevent use of investor-state dispute settlement

The Treasurer must ensure that the transaction arrangements for an authorised transaction are such that they prevent any claim that a party to the transaction arrangements might otherwise have to attempt to settle a dispute with the Government over any matter arising under the transaction arrangements using an investor-state dispute settlement (ISDS) mechanism contained in an international free trade or other agreement to which Australia is a party.

These amendments seek to avoid the hand of government being constrained either by licence or other document or by international trade agreement, in particular by investor-state dispute settlement [ISDS]. I will deal with amendment No. 6 first. Various deals signed by governments over the years have imposed long-term costs and disbenefits on the community of New South Wales. I cited earlier the case of the late Neville Wran's agreement with the aluminium smelters in Tomago and Kurri Kurri. This agreement imposed long-term costs for subsidising the electricity prices the smelters paid for up to three decades. The Greens would be very concerned if similar deals were cut with the lessees of these networks in order to boost the price, particularly following the Australian Energy Regulator's determination that will bring down the price of the networks, and in an environment where it might not be possible to attract bidders who are prepared to pay the putative \$13 billion that the Government has been touting.

We seek to tie the hands of the Treasurer by ensuring the Treasurer cannot bind future governments against changes to the laws of the State with respect to the regulation of the electricity supply or changes to licences or other regulatory instruments, changes to environmental protection legislation, changes in demand or changes in other government policies that have the effect of changing demand or usage of electricity. We would be very concerned if future governments were bound by this decision in any way. To that extent, amendment No. 6 seeks to stop the Treasurer from doing that. It also seeks to stop the Treasurer from building in any compensation to the future owners for changes in electricity demand, whether those changes happen exogenously or as a result of decisions made by the New South Wales Government or other State regulatory agencies.

We also seek to stop the Government from building in any compensation against technological developments that might reduce the amount of energy used in the State. That would not only turn the State Government against technological development but also have the effect of tying the Government to future compensation payments for unstoppable developments in renewable energy and energy storage. The clean energy future will happen and it will have devastating consequences for the private owners of these networks. Potential bidders know that and will be seeking to pass the risk of that back to the State. This amendment specifically seeks to stop the Treasurer from allowing that to occur.

Amendment No. 7 refers specifically to the Trans-Pacific Partnership that is being negotiated in private by the Federal Government with 11 Pacific rim nations. Our concern is that this agreement and future agreements could contain what are called investor-state dispute settlement mechanisms. These mechanisms enable a multinational investor in Australia to take the Australian Government to an international arbitration court and receive significant penalties against the Government for actions that have constrained it with respect to that agreement. We do not know what is in that agreement. It has not been signed yet. We do not know what is in the draft agreement. I understand that Senator Nick Xenophon is about to see what is in that agreement, but he is not allowed to talk about what he sees for a period of four years. In the case of Senator Nick Xenophon, that will be a remarkable achievement, given that he talks about absolutely everything else under the sun.

The Hon. Greg Donnelly: Like you.

Dr JOHN KAYE: I acknowledge that interjection from the Hon. Greg Donnelly—I will take it as a compliment. The Federal Minister for Trade and Investment, the Hon. Andrew Robb, has identified that an ISDS mechanism is likely to be included in the Trans-Pacific Partnership. We do not know what the constraints on the State governments will be in that agreement. I specifically asked Ministers in this House what they knew about the Trans-Pacific Partnership and whether they had engaged in any conversations, dialogue or communication with the Federal Government about it. I am yet to receive an answer to that question. I take it from the non-answer to that question that this Government has not been involved and does not know what the long-term consequences of the Trans-Pacific Partnership will be for the State of New South Wales. The Greens' concern is that we do not know what is in the agreement. We do know that there will be an ISDS. We do not know how that will seek to bind us. Therefore, our amendment No. 7 seeks to insert a new clause into the bill, which states:

The Treasurer must ensure that the transaction arrangements for an authorised transaction are such that they prevent any claim that a party to the transaction arrangements might otherwise have to attempt to settle a dispute with the Government over any matter arising under the transaction arrangements using an investor-state dispute settlement (ISDS) mechanism contained in an international free trade or other agreement to which Australia is a party.

The amendment is specifically to stop this Government and future governments ending up before an international arbitrator and paying hundreds of millions of dollars, if not billions of dollars, in compensation for

policies that are essential to the welfare and the good government of New South Wales. The Greens and I have specific views on international trade agreements and the way they are negotiated, but this is not about that. This is about the reality that 12 governments on the Pacific rim are going flat out to negotiate a partnership agreement that will contain an ISDS. That could pose significant threats with respect to this transaction that would not otherwise be there.

Therefore, it is important that there are clauses to specifically prohibit any private sector parties from engaging in ISDS mechanisms that could end up costing the State a large amount of money. In the absence of this amendment, this privatisation transaction exposes the State of New South Wales to significant penalties whenever it seeks to engage in policymaking and lawmaking in the best interests of the State, and specifically when that impacts on the electricity industry.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) [5.53 p.m.]: We oppose both of The Greens amendments. When executing the authorised transactions, the State will consider previous transactions and endeavour to accommodate future regulatory and economic framework changes, as we have on previous occasions.

The Hon. ADAM SEARLE (Leader of the Opposition) [5.53 p.m.]: The Opposition supports The Greens amendments Nos 6 and 7 for the reasons outlined by Dr John Kaye.

Dr JOHN KAYE [5.54 p.m.]: I respond briefly—

The Hon. Duncan Gay: You do not understand the word "brief".

Dr JOHN KAYE: I therefore respond at great length to the Government's comments. The Government says "as we have done previously", but no other agreement has been negotiated, first, that has the potential economic and social effects of this privatisation; and, secondly, that is done in the face of an emerging Trans-Pacific Partnership. The Leader of the Government then says, "We'll be careful about the future"—a future the Government does not know about and cannot possibly know about. It appears from the absence of answers to my questions on notice that the Government has not bothered to ask the Federal Government about what possible constraints could be imposed by the Trans-Pacific Partnership on the State of New South Wales. Even if the Government had asked, it is only a draft agreement at this stage. At some point in the next 99 years it will become a binding agreement with an ISDS in it. The Government has its head in the sand on this issue to the detriment not of itself but of the people of New South Wales. I commend both amendments to the Committee.

Question—That The Greens amendments Nos 6 and 7 [C2015-012E] be agreed to—put.

The Committee divided.

Ayes, 16

Ms Cotsis	Mr Pearson	Mr Veitch
Mr Donnelly	Mr Primrose	Ms Voltz
Dr Faruqi	Mr Searle	
Mrs Houssos	Mr Secord	<i>Tellers,</i>
Dr Kaye	Ms Sharpe	Ms Barham
Mr Mookhey	Mr Shoebridge	Mr Buckingham

Noes, 21

Mr Amato	Mr Gallacher	Reverend Nile
Mr Blair	Mr Gay	Mr Pearce
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mr Harwin	
Mr Clarke	Mr MacDonald	
Mr Colless	Mrs Maclaren-Jones	<i>Tellers,</i>
Ms Cusack	Mr Mallard	Mr Franklin
Mr Farlow	Mrs Mitchell	Dr Phelps

Pairs

Mr Moselmane
Mr Wong

Mr Ajaka
Mr Mason-Cox

Question resolved in the negative.

The Greens amendments Nos 6 and 7 [C2015-012E] negatived.

The Hon. ADAM SEARLE (Leader of the Opposition) [6.04 p.m.]: I move Opposition amendment No. 8 on sheet C2015-010H:

No. 8 **Manner of effecting authorised transaction**

Page 8. Clause 12. Insert after line 19:

- (5) The Treasurer must publish a report on the proposed structure and governance arrangements for an authorised transaction at least 3 months before completion of the authorised transaction.

We do not believe there is any commercial-in-confidence reason why there should not be a report on the proposed structure and governance arrangements for an authorised transaction published and in the public domain well before the transaction is entered into. Clause 12 of the bill, for example, makes it clear that there is no restriction on the type or form of transactions that may be entered into. The Government says this is for maximum flexibility. This amendment does not seek to constrain the Government's flexibility; it only seeks to have put into the public domain before a transaction is entered into how it is going to be done so there is at least some level of public scrutiny of this matter.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [6.05 p.m.]: The Government opposes this amendment given the appropriate independent regulatory arrangements sit outside the transaction structure and are there to safeguard New South Wales stakeholders. In addition, multiple structures may be considered at any point in time leading up to the transaction, which would make this amendment unworkable.

Dr JOHN KAYE [6.05 p.m.]: The Greens support this amendment, although to some extent it will be after the horse has bolted—after the legislation has been put through. The Premier and the Treasurer say at every possible opportunity that they are so transparent.

The Hon. Adam Searle: We can see through them.

Dr JOHN KAYE: They are so transparent, and as the Leader of the Opposition says, we can see through them. At every possible opportunity the Premier and the Treasurer present themselves as the boy scouts and girl guides of the electricity privatisation world. If they were genuinely committed to keeping the public informed at every stage they would accept this amendment. They would understand that the proposed structure and governance arrangements for an authorised transaction are matters of public interest.

The Hon. Greg Pearce, in a contribution yesterday with which I largely did not agree but I admired the honesty and intellectual rigour he brought to an issue that has little intellectual rigour associated with it, made the point very clearly that the public was opposed to privatisation and remained opposed to privatisation despite the outcome in the election. The public has an obvious ongoing interest and a concern—I believe a justified concern—as to what this transaction will do. The very least the Government could do, if it seeks genuine transparency and its transparency is anything other than a label that it likes to wave around, is to allow a report on the proposed structure and governance arrangements contained in the lease to be published before the transaction proceeds to allow some public debate. The Government might learn something from a public debate for once.

Question—That Opposition amendment No. 8 [C2015-010H] be agreed to—put.

The Committee divided.

Ayes, 16

Ms Barham	Mr Pearson	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Voltz
Ms Cotsis	Mr Searle	
Dr Faruqi	Mr Secord	<i>Tellers,</i>
Dr Kaye	Ms Sharpe	Mr Donnelly
Mr Mookhey	Mr Shoebridge	Mrs Houssos

Noes, 20

Mr Amato	Mr Farlow	Mrs Mitchell
Mr Blair	Mr Gallacher	Reverend Nile
Mr Borsak	Mr Gay	Mr Pearce
Mr Brown	Mr Harwin	Mrs Taylor
Mr Clarke	Mr MacDonald	<i>Tellers,</i>
Mr Colless	Mrs Maclaren-Jones	Mr Franklin
Ms Cusack	Mr Mallard	Dr Phelps

Pairs

Mr Moselmane	Mr Ajaka
Mr Wong	Mr Mason-Cox

Question resolved in the negative.

Opposition amendment No. 8 [C2015-010H] negatived.

The CHAIR (The Hon. Trevor Khan): The next amendment to be moved is Opposition amendment No. 9 on sheet C2015-010H. I note The Greens amendments Nos. 8 and 9 on sheet C2015-012E are in conflict with Opposition amendment No. 9. I invite Dr John Kaye to move The Greens amendments Nos. 8 and 9 as well. What I then propose is that the question on Opposition amendment No. 9 be put and if agreed then The Greens amendments Nos. 8 and 9 will lapse.

Dr JOHN KAYE [6.16 p.m.]: I am agreeable to that, but I would like to include The Greens amendment No. 10. Amendment No. 10 deals with apprenticeship matters, which are also contained in Opposition amendment No. 9.

The CHAIR (The Hon. Trevor Khan): There is no reason why it cannot be moved, but amendment No. 10 is not contingent upon Nos 8 and 9. There is no reason why they cannot be moved together.

The Hon. ADAM SEARLE (Leader of the Opposition) [6.17 p.m.]: I move Opposition amendment No. 9 on sheet C2015-010H:

No. 9 **Transfer of staff to private sector employment—employment guarantee**

Page 11, clause 19, lines 21–29. Omit all words on those lines. Insert instead:

19 Transfers to private sector employment

- (1) The Treasurer may, for the purposes of an authorised transaction, by order in writing transfer the employment of a networks employee (a *transferred employee*) to the employment of a private sector entity (the *new employer*).
- (2) A transfer of employment under this section requires the consent of the networks employee transferred.
- (3) The employment of a transferred employee with the new employer is to be on the same terms and conditions as applied to the employee as a networks employee immediately before the transfer of employment, until those terms and conditions are varied in accordance with law.
- (4) The employment of a transferred employee with the new employer is to be on terms and conditions, for at least the employment guarantee period for the transferred employee, that are at least as favourable as those that applied to the employee as a networks employee immediately before the transfer of employment.

- (5) The employment of a transferred employee with the new employer cannot be terminated by the new employer during any employment guarantee period for the transferred employee, except:
- (a) for serious misconduct, or
 - (b) pursuant to the proper application of reasonable disciplinary procedures, or
 - (c) by agreement with the employee.

For the purposes of this subsection, the termination of employment of a transferred employee includes the transfer of the employee from employment in a regional or rural location of the State to another location without the consent of the employee.

- (6) A transferred employee has an *employment guarantee period* of 5 years (starting on the employee's transfer date) but only if the transferred employee was a networks employee on the date of introduction into Parliament of the bill for this Act and was on that date:
- (a) a permanent employee, or
 - (b) a casual employee, or
 - (c) a temporary employee.

In the case of a transferred employee who is a temporary employee whose existing term of employment would otherwise expire during that period of 5 years, the employment guarantee period of that temporary employee is the balance of the term of his or her employment on the employee's transfer date.

Note. There is no employment guarantee period for contract employees. The employment of a transferred employee who is a contract employee remains governed by the contract of employment.

- (8) The Treasurer is to take all reasonable steps to ensure that at least 50 apprenticeships are maintained in the electricity distribution or transmission business of each authorised network operator in New South Wales for at least 5 years after the completion of the authorised transaction for the business.
- (9) In this section:

casual employee means an employee whose employment is in a category of employment that is described in or classified under a relevant award as casual employment or who is otherwise engaged as a casual employee.

contract employee means an employee whose terms and conditions of employment are provided by an individual contract and not by a relevant award.

permanent employee means an employee whose employment is of indefinite duration and who is not a casual employee, temporary employee or contract employee.

relevant award means any award, agreement or other industrial instrument (under a law of the State or the Commonwealth) that provides for the terms and conditions of employment of employees.

temporary employee means an employee (other than a casual employee or contract employee) whose employment is in a category of employment that is described in or classified under a relevant award as temporary employment or whose employment is, under the terms of his or her employment, for a limited period.

transfer date of a transferred employee means the date on which the employment of the transferred employee is transferred under this section to the new employer.

This seeks to amend clause 19 of the bill on page 11. The bill currently provides that the Treasurer may transfer the employment of a network's employee to the employment of a private sector entity without consent, in contravention of hundreds of years of common law against civil conscription or domestic servitude. People should only be employed where there is an agreement to do so, not against their will. The Premier in his media release of 10 June stated:

The jobs of permanent award employees will be protected.

The legislation before the House does not do that. There is a very limited protection in clauses 17 to 22, which merely protects the continuity of entitlements and other crude entitlements but does not provide the protections that would compensate employees for the loss of security in their current employment. The select committee, of which I was a member, heard evidence on this issue. Recommendation 4 states:

That the New South Wales Government ensure that the employment protection guarantees sought by Unions NSW and the Electrical Trades Union ... are included in any enabling legislation.

A number of matters are set out, including; a five-year employment guarantee; the transfer of all accrued entitlements; recognition of prior service; and, importantly, job location guarantees; a sufficient number of apprenticeship opportunities; a payment on transfer from the public sector; and only consensual transfers to a new private sector employer.

Opposition amendment No. 9, at proposed clause 19 (2), deals with the issue of consent by saying that a transfer can only occur with the consent of the employee concerned, which reflects entirely the substance of recommendation 4 of the committee. This amendment also provides an employment guarantee period of five years in proposed clause 9 (6), which is again reflective of recommendation 4. Proposed clause 9 (5) also provides as part of the employment guarantee period that during that period with the new employer an employee cannot be terminated during the employment guarantee period except for misconduct and like matters which are set out. Importantly in relation to the issue of the regional job location guarantees the proposed amendment states:

For the purposes of this subsection, the termination of employment of a transferred employee includes the transfer of the employee from employment in a regional or rural location of the State to another location without the consent of the employee.

The importance is that it is not just an issue of the personal convenience or career of the individual employee or their family but it goes wider into their community. When jobs are taken out of local communities the process of hollowing out those local economies begins, which has a domino effect. If 10 or 20 well-paid jobs from the electricity sector are taken out of the community it affects not only those families but also local schools, shops, shopkeepers and their families and the domino effect is that the economy is hollowed out, decimated and laid to waste. It then creates further pressure because it becomes uneconomic for government services at different levels to continue to be provided in those communities. Those services are in turn withdrawn which puts further pressure on the remaining communities which causes people to leave to seek economic opportunities for themselves and their families elsewhere. It is a death spiral for regional and rural locations.

I note that Reverend the Hon. Fred Nile has foreshadowed some amendments that go to this similar issue. My concern with those amendments is that their wording may—and I can put it no higher than that—be limited to administrative operations of network operators and administrative staff. Of course, the bulk of staff likely to be affected by authorised transactions are power workers, linesmen, tradesmen and the like. With the best will in the world, Christian Democratic Party amendment No. 12 may not capture those blue-collar tradesmen and other workers who will be directly affected by the authorised transaction. Reverend the Hon. Fred Nile said that amendments should be entirely reflective of the committee recommendations. Opposition amendment No. 9 reflects entirely recommendation 4 made by the committee in that it provides the five-year employment guarantees; protects the transfer of all accrued entitlements, including the recognition of prior service; provides for the job location guarantees; paragraph (8) deals with the apprenticeship issue; and it makes sure that transfers are only consensual.

In relation to apprenticeships it is important to make sure there are sufficient apprenticeships not only for the individuals concerned but also to ensure that the industry in this State remains viable. Given that these amendments are entirely reflective of the recommendations of the committee, I hope and expect that all members will be supportive of them in this place.

Dr JOHN KAYE [6.25 p.m.], by leave: I move The Greens amendments Nos 8, 9 and 10 on sheet C2015-021E in globo:

No. 8 Transfer of employment to private sector requires consent

Page 11, clause 19 (2), lines 25 and 26. Omit all words on those lines. Insert instead:

- (2) A transfer of employment under this section cannot be made without the consent of the networks employee transferred.

No. 9 **Employment guarantee for employees transferred to private sector**

Page 11, clause 19 (3), lines 27–29. Omit all words on those lines. Insert instead:

- (3) The employment of a transferred employee with the new employer is to be on the same terms and conditions as applied to the employee as a networks employee immediately before the transfer of employment, until those terms and conditions are varied in accordance with law.
- (4) Those terms and conditions cannot be varied during any employment guarantee period for the transferred employee to reduce the salary (including allowances) or other employment benefits of the transferred employee except by agreement entered into by or on behalf of the transferred employee.
- (5) The employment of a transferred employee with the new employer cannot be terminated by the new employer during any employment guarantee period for the transferred employee, except:
 - (a) for serious misconduct; or
 - (b) pursuant to the proper application of reasonable disciplinary procedures; or
 - (c) by agreement with the employee.
- (6) A transferred employee has an *employment guarantee period* of 5 years (starting on the employee's transfer date) but only if the transferred employee was a networks employee on the date of introduction into Parliament of the bill for this Act and was on that date:
 - (a) a permanent employee; or
 - (b) a casual employee; or
 - (c) a temporary employee.

In the case of a transferred employee who is a temporary employee whose existing term of employment would otherwise expire during that period of 5 years, the employment guarantee period of that temporary employee is the balance of the term of his or her employment on the employee's transfer date.

Note. There is no employment guarantee period for contract employees. The employment of a transferred employee who is a contract employee remains governed by the contract of employment.

- (7) In this section:

casual employee means an employee whose employment is in a category of employment that is described in or classified under a relevant award as casual employment or who is otherwise engaged as a casual employee.

contract employee means an employee whose terms and conditions of employment are provided by an individual contract and not by a relevant award.

permanent employee means an employee whose employment is of indefinite duration and who is not a casual employee, temporary employee or contract employee.

relevant award means any award, agreement or other industrial instrument (under a law of the State or the Commonwealth) that provides for the terms and conditions of employment of employees.

temporary employee means an employee (other than a casual employee or contract employee) whose employment is in a category of employment that is described in or classified under a relevant award as temporary employment or whose employment is, under the terms of his or her employment, for a limited period.

transfer date of a transferred employee means the date on which the employment of the transferred employee is transferred under this section to the new employer.

No. 10 **Apprenticeship guarantee**

Page 11. Insert after line 29:

20 Apprenticeship guarantee

The Treasurer is to develop a plan that ensures that a sufficient number of apprenticeships are maintained in the electricity distribution or transmission businesses of private sector entities to meet the projected future needs of the electricity industry in the State, having regard to training provided by other organisations and the projected future needs of the electricity industry and related industries.

These amendments address largely the issues raised by the Hon. Adam Searle in a slightly different way and we could pick and choose between them. I am very attracted to the regional jobs guarantee put forward by the Opposition. I suspect that my apprenticeship formula is slightly stronger than the numbers in the Opposition's amendment. Nonetheless, they cover more or less the same territory and are quite similar. They both attempt to stop, at least in the first five years of the operation of the transfer of these assets to the private sector, a wholesale loss of apprentices and a hollowing out of the skills base of the New South Wales electricity industry. It is a critical skills base at the engineering, line worker, call centre and even administrative levels for keeping the State not only provided with power but also safe.

I have worked in the electricity industry, as have some other members in this Chamber, and we recognise the enormous risks that even 240 volts, let alone 11,000 volts, 330,000 volts or 500,000 volts, poses not only to those highly skilled and brave individuals, who work in some cases barehanded with live lines at those high voltages, but also to the public in terms of bushfire risk and electrocution risk. There are also economic imperatives of having a high-quality supply of electricity that could easily be damaged by a loss of that knowledge base.

The amendments of the Opposition and The Greens recognise that there will be substantial job losses partly as a result of the Australian Energy Regulator determination, and partly as a result of the failure of the Government and Networks NSW to move into the contestable market for expanding employment opportunities, as was discussed when dealing with an earlier amendment. That means the jobs that survive at the time of transfer are the only ones guaranteed. I am concerned that the amendments of The Greens and the Opposition are an invitation to the Government to get rid of as many people as possible from the network businesses before the transaction. To that extent, I foreshadow that The Greens will be moving that transfer payments will be available not only to those who are transferred but also to those who leave the industry to put at least some dampener on the economic incentives to hollow out the industry before the transfer occurs.

Five years is not very long, maybe because I am older than I was many years ago, but as I look around the Chamber many of us would now recognise the reality that five years as an adult is not a very long period of time, particularly when one is facing at the end of that five years the likelihood of unemployment. I have grave concerns about workers in this industry and what will happen to them through privatisation. Five years is at best a reprieve; it is not a solution to the job losses that privatisation will inevitably bring to the industry. I refer to The Greens amendment No. 8 which is incorporated in Opposition amendment No. 2, proposed clause 19 (2)—that is, that a transfer can only occur with the consent of the employee. The transfer of employment under this clause cannot be made without the consent of a transferred network employee.

We live in a democracy; we believe in the freedom of labour and the rights of people not to be treated as goods. Forced transfers out of the public sector and into the private sector violate the rights of individuals to choose where they work. One day a person is working for the public sector and the next day that person is not. We saw this with the privatisation of Ageing, Disability and Home Care [ADHC] and we are seeing it again today. It is an unfortunate characteristic of this Government that it treats employees in the public sector as though they are commodities and not individuals who have made a choice to work for the public sector. Many people work for the public sector, recognising that they might be able to get a higher rate of pay outside, because of the security and the sense of public service that working in the public sector provides.

This legislation bestows upon the Treasurer powers akin to those of a mediaeval king, pre-Magna Carta. What concerns me is that suddenly the Treasurer has all sorts of rights under this legislation—and she will exercise them. The legislation bestows a right to direct people where they shall work. That is not congruent with a modern democracy or with modern ideals of the way in which to treat a workforce. Workers go to bed one day as public sector employees and they wake up the next day to find that Treasurer Berejiklian has decided that they will work for the private sector. It is undemocratic, unfair and does not respect the rights of the workforce. I therefore commend The Greens amendment No. 8 to the Committee.

I also want to speak briefly about The Greens amendment No. 10—the apprenticeship guarantee. This is an industry which is seeing massive change. Nonetheless, it is an industry that will remain central to the economic, social and political wellbeing of our economy and our society. It is critical that we maintain, nourish, replenish, replace and grow the knowledge base of the workforce in that industry. Privatisation means that we are handing over these networks to corporations whose only interest is next year's profit margin. They will have no interest whatsoever in the long term. I have grave concerns about what that will mean for apprenticeships, amongst other things.

We have seen a substantial decline in the number of apprenticeships in Australia and New South Wales, partly because of some really stupid things that have been done to TAFE and partly because the wages for apprentices are inadequate. It is appalling to see quality apprenticeships that are offered by the public sector providers of the electricity networks of this State dwindle and possibly disappear entirely. It will have shocking consequences on the overall skills base of this State. To that extent, I strongly commend The Greens amendment No. 10, which says that the Treasurer has to develop a plan that makes sure there is a sufficient number of apprenticeships to secure the future needs of the electricity industry.

The electricity industry, in one form or another, is about 120 years old. Ten years ago I would have said it was a mature industry. It is no longer a mature industry; it is an industry that is seeing massive change. To foreclose on our future without securing apprenticeships in that industry would be an appalling outcome. Worse still, to put the number of apprentices in competition with the number of employees is not only unfair to those employees and apprentices but also downright dangerous for the community and for the economy. Securing those high-quality apprenticeships is a matter on which the Parliament cannot turn its back. It is a matter on which this Parliament has to have an opinion—an opinion in favour of securing those apprenticeships. I commend The Greens amendments Nos 8, 9 and 10 to the Committee.

Reverend the Hon. FRED NILE [6.33 p.m.]: The Christian Democratic Party has had lengthy discussions with Unions NSW about all matters related to the employees in the electricity industry, including both the adult employees and the apprentices. Unions NSW provided a detailed proposition listing a number of areas such as the employment guarantee period, voluntary redundancies, forced redundancies and leave entitlements. I have come to the conclusion that, rather than inserting amendments through the legislation, the best way to handle the issue is to combine all the matters relating to employees into a new schedule 4. I ask members to look at proposed Christian Democratic Party amendments for the 22 categories which itemise in detail each category—the employment guarantee period for five years, salary, apprentices, dispute handling procedures, et cetera.

I urge all members to vote against Opposition amendments and The Greens amendments. We will deal with those issues when we get to Christian Democratic Party amendments and systematically go through the amendments listed on page 5 of the amendment sheet. The Leader of the Opposition has one amendment that covers 1½ pages but it wanders all over the place. I have broken it down into systematic micro-amendments on each issue so that members can clearly understand how we are dealing with each item and there is no vagueness. The unions prefer to have all these employee matters in the bill in one place, so that when workers ask, "How does this affect me?" they can look at the legislation and see that schedule 4 is the one they are concerned about. They do not have to be worried about other parts of the bill; they will understand that schedule 4 relates to their bread and butter issues. There are some positive things in the Opposition amendments but they are all taken up in the CDP amendments. All members should vote against the Opposition and The Greens amendments as in due course we will be debating the CDP itemised amendments to include a new schedule 4.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [6.36 p.m.]: The Government opposes Opposition amendment No. 9 as it will be supporting Christian Democratic Party amendments that will make this provision redundant. The bill provides for employees to transfer on the terms and conditions in their enterprise bargaining agreements. We oppose The Greens amendment No. 8, which is not an achievable approach to these transactions. The bill provides for a transfer on current terms and conditions in the existing enterprise bargaining agreements. We also oppose The Greens amendment No. 9 as the Government will support Christian Democratic Party amendments that will make this redundant. In relation to amendment No. 3, employees already transfer on the same terms and conditions on agreed mutuality by the employee.

In relation to amendment No. 4, employment conditions are governed by employees respective enterprise bargaining agreements. In relation to amendment No. 5, individual employment guarantees cannot work in this context. The Government will support Christian Democratic Party amendments that consider a more logical approach and focus on staffing levels relative to this proposed amendment. In relation to amendment No. 6, we will support the Christian Democratic Party amendments that will make this redundant. In relation to amendment No. 7, the Government will support the Christian Democratic Party amendment that will also make this redundant. With regard to The Greens amendment No. 10, the Government opposes this amendment for the same reasons—it will support the Christian Democratic Party amendments that will make this redundant.

Mr DAVID SHOEBRIDGE [6.39 p.m.]: I speak in support of the Opposition amendments and The Greens amendments as moved by Dr John Kaye. I will not address every aspect of those amendments but I will

address one key issue referred to by Reverend the Hon. Fred Nile—that the Christian Democratic Party amendments cover everything that is contained in the Opposition's and The Greens' amendments. While it is true there is a good deal of overlap, one aspect is fundamentally missing from the Christian Democratic Party amendments. The Opposition's amendment to clause 19 (2) provides that, "A transfer of employment under this section requires the consent of the networks employee transferred." That is mirrored in large part—although with an important difference—in my colleague Dr John Kaye's amendment No. 8. That amendment proposes to insert a requirement that, "A transfer of employment under this section cannot be made without the consent of the networks employee transferred."

The Opposition's wording requires the employee's proactive consent to transfer. On the other hand, Dr John Kaye's amendment provides that the transfer would not be effective if the employee chose not to agree to it. The Opposition's amendment requires the employee to opt in actively, and The Greens amendment provides that employees can opt out and not have their employment transferred. The Government's response suggests it believes that is impractical and that it would not work. It seems to be suggesting that this is something novel.

Reverend the Hon. Fred Nile: It is.

Mr DAVID SHOEBRIDGE: I acknowledge that interjection.

The CHAIR (The Hon. Trevor Khan): Order! I again advise the member not to respond to interjections. I obviously also advise members not to interject.

Mr DAVID SHOEBRIDGE: International labour law almost invariably adopts one or other of the propositions being put forward by the Opposition and The Greens. That is, the mere transfer of a business entity from corporation A to corporation B does not of itself, without consent or without the option not to be transferred, lead to the employee moving from corporation A to corporation B. The United Kingdom Transfer of Undertakings (Protection of Employment) Regulations 2006 [TUPE] provide for the exact regime that my colleague Dr John Kaye is proposing. Rule 4 (7) of the TUPE provides that the employee will not become an employee of the new entity but will be treated as though the contract terminated when the transfer took place. In other words, it allows the employee to say, "No, I do not want to work for that corporation."

There are many reasons an employee may choose not to go down that path. For example, the corporation taking over might have a particularly noxious corporate record and the employee may find it personally offensive. I would not want to work for British American Tobacco Australia, RJR Nabisco or Monsanto. If any of those companies were seeking to take over a company for which I worked, I would want some basis in law to say I did not wish to transfer. If a New South Wales electricity workers chose to spend their careers working for the public service—that is their life goal; they want to work for a public entity that provides a public good—

Reverend the Hon. Fred Nile: Which will no longer exist.

Mr DAVID SHOEBRIDGE: That is correct; it will no longer exist as a result of the passage of legislation that unfortunately Reverend the Hon. Fred Nile supports. Employees may object to the proposed transfer of the business undertaking from the people of New South Wales to an investment arm of an authoritarian foreign government whose human rights record they find offensive. Why should this Parliament compel those employees to work for an employer whom they find morally reprehensible, economically exploitative or environmentally destructive? As a minimum, an employee should have the option to opt out and to say, "No, I do not wish to work for this entity." Dr John Kaye's amendment provides that option.

Despite what the Government says about that option being impractical, we know that it is practical because it is the state of the law in the United Kingdom. It has simply implemented a Europe-wide model that protects the rights of employees with regard to transfers. We have a Coalition Government that champions the power of the individual. Members opposite believe in empowering individuals, freedom of will and freedom of contract, but they are proposing to compel employees to move from corporation A to corporation B. That should be offensive to anyone who subscribes to a conservative ideology and who believes in the right of individuals to choose with whom they contract.

It should be offensive to anyone who believes that workers should have decent rights and at least something like a level playing field. People should not be treated as indentured labourers and be moved from corporation A to corporation B without their consent. I commend the Opposition's amendments because of their

thoroughness. The Greens amendment No. 8 is a stand-alone provision that is not in conflict with the Christian Democratic Party's proposed schedule 4. Indeed, it enhances that schedule. As a stand-alone amendment it will go a long way towards protecting the rights of thousands of workers whose interests we should all be protecting.

The CHAIR (The Hon. Trevor Khan): Order! I propose to put Opposition amendment No. 9 first. If it is agreed to, and notwithstanding what has been said, The Greens amendments Nos 8 and 9 will then lapse. If Opposition amendment No. 9 is not agreed to, I will put The Greens amendments Nos 8, 9 and 10 in globo. I anticipate that divisions will be called. Once we have dealt with Opposition amendment No. 9, I ask members to remain in the Chamber so that we can deal with The Greens amendments Nos 8, 9 and 10, hopefully on a short bell.

Dr JOHN KAYE [6.47 p.m.]: I seek the leave of the Committee to put The Greens amendment No. 8 separately from amendments Nos 9 and 10.

The CHAIR (The Hon. Trevor Khan): Order! The member does not need leave to do that. If that is the way he wishes to proceed, that is what we will do.

Question—That Opposition amendment No. 9 [C2015-010H] be agreed to—put.

The Committee divided.

Ayes, 16

Ms Barham	Mr Pearson	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Voltz
Ms Cotsis	Mr Searle	
Dr Faruqi	Mr Secord	<i>Tellers,</i>
Mrs Houssos	Ms Sharpe	Mr Donnelly
Dr Kaye	Mr Shoebridge	Mr Mookhey

Noes, 21

Mr Amato	Mr Gallacher	Reverend Nile
Mr Blair	Mr Gay	Mr Pearce
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mr Harwin	
Mr Clarke	Mr MacDonald	
Mr Colless	Mrs Maclaren-Jones	<i>Tellers,</i>
Ms Cusack	Mr Mallard	Mr Franklin
Mr Farlow	Mrs Mitchell	Dr Phelps

Pairs

Mr Moselmane	Mr Ajaka
Mr Wong	Mr Mason-Cox

Question resolved in the negative.

Opposition amendment No. 9 [C2015-010H] negatived.

Question—That The Greens amendment No. 8 [C2015-012E] be agreed to—put:

The Committee divided.

Ayes, 16

Mr Buckingham	Mr Pearson	Mr Veitch
Ms Cotsis	Mr Primrose	Ms Voltz
Dr Faruqi	Mr Searle	
Mrs Houssos	Mr Secord	<i>Tellers,</i>
Dr Kaye	Ms Sharpe	Ms Barham
Mr Mookhey	Mr Shoebridge	Mr Donnelly

Noes, 21

Mr Amato
Mr Blair
Mr Borsak
Mr Brown
Mr Clarke
Mr Colless
Ms Cusack
Mr Farlow

Mr Gallacher
Mr Gay
Mr Green
Mr Harwin
Mr MacDonald
Mrs MacLaren-Jones
Mr Mallard
Mrs Mitchell

Reverend Nile
Mr Pearce
Mrs Taylor

Tellers,
Mr Franklin
Dr Phelps

Pairs

Mr Moselmane
Mr Wong

Mr Ajaka
Mr Mason-Cox

Question resolved in the negative.

The Greens amendment No. 8 [C2015-012E] negatived.

Question—That The Greens amendments Nos 9 and 10 [C2015-012E] be agreed to—put and resolved in the negative.

The Greens amendments Nos 9 and 10 [C2015-012E] negatived.

[The Chair (The Hon. Trevor Khan) left the chair at 7.01 p.m. The Committee resumed at 8.00 p.m.]

The Hon. PAUL GREEN [8.00 p.m.]: I move Christian Democratic Party amendment No. 3 on sheet C2015-008H:

No. 3 Consequential

Pages 11 and 12, clause 20, line 30 on page 11 to line 26 on page 12. Omit all words on those lines. Insert instead:

20 Arrangements for transferred employees

- (1) On the transfer by order under this Part of an employee's employment from one employer (the *current employer*) to another employer (the *new employer*) the provisions of this section have effect.
- (2) If the employee is an apprentice or trainee under the *Apprenticeship and Traineeship Act 2001*:
 - (a) the new employer must apply under section 20 of that Act for approval to the transfer of the apprenticeship or traineeship to the new employer; and
 - (b) consent to the transfer is not required to be given by the apprentice or trainee or the current employer (despite section 20 (4) of the *Apprenticeship and Traineeship Act 2001*).
- (3) An employee is not entitled in respect of the same period of service to claim a benefit under this Act and another law or instrument.
- (4) The Treasurer may in connection with the operation of schedule 4 give a certificate in writing as to the extent of the accrued rights to annual leave, extended or long service leave or sick leave that are retained by the employee under that schedule, and such a certificate is evidence of the matters certified.
- (5) Nothing in the *Long Service Leave Act 1955* prevents payment in connection with the transfer under this Act of the employment of an employee to the employment of a private sector entity of the monetary value of long service leave in lieu of an entitlement to that leave accrued as a networks employee before the transfer of the employee's employment.

This amendment is necessary in order to amend clause 20 to ensure that all the employment guarantees that I am proposing will be contained in schedule 4. Schedule 4 will clearly set out the employment guarantees that the workers in Ausgrid, Endeavour Energy and TransGrid will benefit from. It will be easier for employees to understand if all the guarantees are in the one place. Many of us may have a different understanding of the law but by doing this it will make it easier for every man and woman employed in this State to find what this Chamber has chosen to do with his or her conditions.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [8.03 p.m.]: The Government supports Christian Democratic Party amendment No. 3. This is a necessary amendment to amend clause 20 of the bill to ensure that all the employment guarantees will be contained in schedule 4. We think it is appropriate for all those protections to be in the one place.

The Hon. ADAM SEARLE (Leader of the Opposition) [8.04 p.m.]: The Opposition does not oppose Christian Democratic Party amendment No. 3 because this bill will be better than it presently is after other amendments are made this evening. There is nothing wrong with having everything collocated in one schedule, but it is very easy to understand one's rights when they are limited to almost zero. It will be instructive to tease out some of the differences between the bill when the House has finished with it and the significant disconnect that will remain between it and the select committee's report. But I will return to that theme as we deal with other issues in this legislation.

Dr JOHN KAYE [8.05 p.m.]: I have the following concern—and I presume this concern is not real—but if we take clause 20 as it exists in the bill and compare it with clause 20 as it exists in Christian Democratic Party amendment No. 3 it is a substantial step backwards because a number of matters are being deleted. I take it on faith that the Government will support the subsequent amendments of the Christian Democratic Party to reinstate those matters.

The Hon. Duncan Gay: For the record, the answer is yes.

Dr JOHN KAYE: I do not normally note interjections but I note that one because it is constructive. I will take the Government's word on it. It means that subsequent amendments will be passed so it is not the step backwards it appeared to be in the first instance. Judging from the voting patterns in this Chamber, it appears that what is contained in the rest of the Christian Democratic Party amendments is the best that is on offer—which is better than nothing. It is better than a poke in the eye with a blunt stick but it falls a long way short of what a civilised society would provide for its workforce. The Greens will not oppose the amendment.

The Hon. ROBERT BROWN [8.06 p.m.]: On the basis that the Government has clearly enunciated that it will support the Christian Democratic Party amendments as a package, and whilst I do not share the concerns expressed by Dr John Kaye that this will pull apart some of the things that could have been provided for, I think the Christian Democratic Party and the Shooters and Fishers Party could have gone a bit further. But as I said in my speech during the second reading debate, I can count. The Christian Democratic Party amendments go a long way towards making the original bill much better, and the Shooters and Fishers Party will support all of them.

The Hon. PAUL GREEN [8.07 p.m.]: I have heard the comments of The Greens and note the comments of the Opposition. At the end of the day, as we will probably articulate again during the consideration of further amendments, this amendment resulted from the representation of the stakeholders in their meeting with us. If anything has fallen short it was probably due to that process falling short, not because we did not represent them. We took note of their representations, most of which have been met. I commend the Christian Democratic Party amendment No. 3 to the Committee.

Question—That Christian Democratic Party amendment No. 3 [C2015-008H] be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendment No. 3 [C2015-008H] agreed to.

The Hon. ADAM SEARLE (Leader of the Opposition) [8.09 p.m.]: I will move Opposition amendment No. 10. Once Opposition amendment No. 10 is dealt with, I will then seek leave to move Opposition amendments Nos 11 to 14 on sheet C2015-010H in globo. I move Opposition amendment No. 10 on sheet C2015-010H:

No. 10 **Transfer payments**

Page 12. Insert after line 26:

21 Payments to employees leaving public sector employment

- (1) The Treasurer (or another public sector agency designated by the Treasurer) is required to enter into agreements or other arrangements with respect to the making of transfer payments to networks employees in connection with the transfer under this Part of the employment of those employees to the employment of a private sector entity.

- (1) A transfer payment is an amount equivalent to:
 - (a) if the employee has at least 1 year of service but less than 2 years—7.5 weeks of the employee's salary, or
 - (b) if the employee has at least 2 years of service but less than 3 years—13.125 weeks of the employee's salary, or
 - (c) if the employee has at least 3 years of service but less than 4 years—18.75 weeks of the employee's salary, or
 - (d) if the employee has at least 4 years of service but less than 5 years—22.25 weeks of the employee's salary, or
 - (e) if the employee has at least 5 years of service but less than 6 years—26.25 weeks of the employee's salary, or
 - (f) if the employee has at least 6 or more years of service—30 weeks of the employee's salary, plus an additional 1 week of the employee's salary for each completed year of service exceeding 6 years.
- (3) A transfer payment is in addition to any other payment to which the person is entitled.
- (4) In this section, **salary** does not include allowances.

This amendment provides for the insertion of a sliding scale of transfer payments to be made to workers transferred from the public sector to the private sector. Transfer payments of this nature have been a feature of other like transactions. The ports, generators and retailers transactions not only provided for securing accrued entitlements of leave, superannuation and the like; there was a recognition that persons in those industries were moving from long-term, stable and most likely permanent employment into the uncertainties of the non-government or private sectors. In this industry there is the added uncertainty created by the Australian Energy Regulator [AER] determination. On the formulation of the transfer payments proposed by the Labor Opposition, the only persons who would benefit are those who remain employed after the AER determination process, who therefore remain employed by the network operators and are transferred to the private sector. Nevertheless, those persons for the most part are long-term permanent employees—in many cases, they were employed as teenage apprentices and worked their way up through the various trades and positions with what are now network operators.

In recognition of that, the select committee grappled with this issue. It is not giving away any confidences to say that if members look at the minutes of proceedings, which are at the back of the committee report, they will see that these matters were not included in the original chairman's draft. But in its deliberative wisdom, the committee added to the five-year jobs guarantee that was originally in the chairman's draft with the additional employment protection guarantees sought by the union movement on behalf of those workforces. I dealt with those in large part when speaking to my other amendment. There has been no explanation as to why the Christian Democratic Party, having supported those matters being included in the select committee report, is not now supporting their being in the legislation. But there is one matter that is quite clearly in the committee report. Recommendation 4 is that payment on transfer from the public sector be included in the legislation. It is not simply a cash sling; it is recognition that the former security of employment is essentially being removed and therefore there should be an offsetting payment.

As I have indicated, this is not an innovation. It has been a feature of other like transactions. So we have moved Opposition amendment No. 10 in order that there is comity with other like transactions. The transfer payment was not a feature of the original draft report, but it was included. The recommendation is clear that it should be included in the enabling legislation, and it is not in the legislation. In order that all members have the opportunity to make good on the recommendation of the chairman's report, we should have a sliding scale of transfer payments for public sector workers who are losing those conditions of employment associated with the security and the wellness that come from true permanency of employment. On our formulation, this would apply only to those who survive the AER downsizing activities and remain employed to be transferred.

We think it is fair and reasonable. It is right that those securities are bought out, it is right that there is comity with other like transactions and, ultimately, it is right that this legislation is brought into line with the report of the select committee in this respect. As I said, it was not in the original draft, but it was included in our deliberative process. Including the transfer payments is the right thing to do. These workers are losing a lot. We recognise that. Change is coming to that industry. This will not address all the industry's concerns, but it is right that we take this step to give such security, or compensation for lack of security, as we can. I earnestly invite all members to support this amendment.

Dr JOHN KAYE [8.16 p.m.]: I move The Greens amendment No. 11 on sheet C2015-012E:

No. 11 Transfer payments

Page 12. Insert after line 26:

21 Payments to employees leaving public sector employment

- (1) The Treasurer (or another public sector agency designated by the Treasurer) is required to enter into agreements or other arrangements with respect to the making of transfer payments to the persons who were employed by electricity network SOC's on 1 January 2015, who had at least 1 year of service as at that date and who cease to be employed by an electricity network SOC because of a transfer of employment under this Part or any other cessation of employment other than:
 - (a) for serious misconduct, or
 - (b) pursuant to the proper application of reasonable disciplinary procedures, or
 - (c) by agreement with the employee.
- (2) A transfer payment is an amount equivalent to:
 - (a) if the employee has at least 1 year of service but less than 2 years—7.5 weeks of the employee's salary, or
 - (b) if the employee has at least 2 years of service but less than 3 years—13.125 weeks of the employee's salary, or
 - (c) if the employee has at least 3 years of service but less than 4 years—18.75 weeks of the employee's salary, or
 - (d) if the employee has at least 4 years of service but less than 5 years—22.25 weeks of the employee's salary, or
 - (e) if the employee has at least 5 years of service but less than 6 years—26.25 weeks of the employee's salary, or
 - (f) if the employee has at least 6 or more years of service—30 weeks of the employee's salary.
- (3) A transfer payment is in addition to any other payment to which the person is entitled.
- (4) In this section, *salary* does not include allowances.

This amendment is similar to Opposition amendment No. 10 and is moved for similar reasons but it has one subtle difference. The Opposition's amendment is relevant to those employees in the industry who are present at the time of transfer of the authority for whom they work to the private sector. The proposal of The Greens is that those transfer payments apply to all employees who are present as of 1 January 2015 but who are either transferred or cease employment between 1 January 2015 and the time of transfer, other than for reasons of serious misconduct, a disciplinary procedure, or by agreement with the employee.

The reason for this is that I have great concerns about employment protections resulting in the hollowing out of the workforce before the transfer. Part of the reason for these transfers is to apply a cost to the Government of hollowing out early. It reduces some—but not all—of the incentive to hollow out early, so it will protect some of the employees up to the point of transfer. It is hoped they will then have some years of guarantee. That is the difference between Labor's proposal and The Greens' proposal on the table this evening.

We will support Labor's proposal for the reasons outlined by the Hon. Adam Searle. But we think The Greens proposal is better because it has added benefits. I conclude by saying that there are good reasons for transfer payments when somebody is forced from the public sector into the private sector. Bear in mind that the House rejected amendments moved by both the Opposition and The Greens to remove the capacity of the Treasurer to forcibly transfer an employee of one of the agencies out of the public sector and into the private sector.

People—and I include myself in this comment—work for the public sector for a variety of reasons. I know that many of those reasons are no longer popular with the neoliberal elite who run economic policy in New South Wales, but they are valid for those employees. Those reasons go to issues of public service, they go to issues of job security, and they go to issues of working collectively. They go to the issue of being engaged in a collective enterprise for the common good. It is clear that, as the pendulum swings to the tin foil hatted right as it is doing at the moment, these ideas are not in vogue. The idea of working collectively for the common good has been almost entirely sacrificed—

The CHAIR (The Hon. Trevor Khan): Order! The Government Whip has been well behaved up to this point. He should continue to be well behaved or he will be called to order.

Dr JOHN KAYE: The people who are losing that commitment and that relationship with their employment—and who are to be forced into the employ of a private sector employer who they might find does not suit their ethical values—deserve some degree of compensation for what this Government, and indeed this Parliament, is doing to them. This amendment is not perfect. An employee who has worked for six or more years, who has given maybe 10, 15 or 20 years of their life to public service and who has forgone the salary they could have got in the private sector, is only going to get 30 weeks of salary. But it is at least some compensation. I am disappointed that it appears there will not be any transfer payments, despite the findings of the upper House committee. It is a shame that the recommendations of that committee have been picked selectively to suit the needs of the Government. It is a shame that will be borne by all of us if we do not provide at least some compensation to these workers.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [8.22 p.m.]: The Government opposes both Opposition amendment No. 10 and The Greens amendment No. 11 on the same grounds. Whilst The Greens say their amendment is better than that of the Labor Party, the amendments are pretty similar. The Government opposes both amendments on the grounds that any such payments would restrict the Government's ability to provide apprentice job guarantees and other employment guarantees.

The Hon. ROBERT BROWN [8.23 p.m.]: The position of the Shooters and Fishers Party on Opposition amendment No. 10 and The Greens amendment No. 11 is that we would have preferred the Government had agreed during the negotiations with Reverend the Hon. Fred Nile that these transfer payment clauses could stand in some form. We are not abrogating our responsibility to act in the best interests of those employees but we have an agreement with the Christian Democratic Party that it has the lead on this legislation, for very practical reasons. The practical reasons are that Reverend the Hon. Fred Nile and the Hon. Paul Green are more likely to get a package out of the Government than the Shooters and Fishers Party during this four-year term—I cannot wait for 2019.

Dr John Kaye: That is interesting.

The Hon. ROBERT BROWN: It is. Once you have selected your negotiating team, you should not then second-guess them. We will not take the coward's way out and abstain from voting on these amendments; we will vote with the Christian Democratic Party. We will support the Christian Democratic Party in the rest of its package of amendments. I have heard it argued that four years plus 30 weeks is still less than five years. Whilst my position in terms of what the Government will cop—if I may use that term—might be different from the way that negotiations have gone between the Christian Democratic Party and the Government, I take my hat off to Reverend the Hon. Fred Nile for achieving what he has negotiated with the Government. The Government has indicated that it will accept his amendments. To me, that is probably the most pragmatic deal we are going to get. So for those reasons we will, unfortunately, not support either Opposition amendment No. 10 or The Greens amendment No. 11. But we will sit in this House and vote against the bills.

Question—That Opposition amendment No. 10 [C2015-010H] be agreed to—put.

The Committee divided.

Ayes, 15

Ms Barham	Mr Primrose	Ms Voltz
Mr Buckingham	Mr Searle	
Ms Cotsis	Mr Secord	
Mrs Houssos	Ms Sharpe	<i>Tellers,</i>
Dr Kaye	Mr Shoebridge	Mr Donnelly
Mr Mookhey	Mr Veitch	Dr Faruqi

Noes, 21

Mr Amato	Mr Gallacher	Reverend Nile
Mr Blair	Mr Gay	Mr Pearce
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mr Harwin	
Mr Clarke	Mr MacDonald	
Mr Colless	Mrs Maclaren-Jones	<i>Tellers,</i>
Ms Cusack	Mr Mallard	Mr Franklin
Mr Farlow	Mrs Mitchell	Dr Phelps

Pairs

Mr Moselmane	Mr Ajaka
Mr Wong	Mr Mason-Cox

Question resolved in the negative.

Opposition amendment No. 10 [C2015-010H] negatived.

Question—That The Greens amendment No. 11 [C2015-012E] be agreed to—put.

Division called for and Standing Order 114 (4) applied.

The Committee divided.

Ayes, 15

Ms Cotsis	Mr Primrose	Ms Voltz
Mr Donnelly	Mr Searle	
Dr Faruqi	Mr Secord	
Mrs Houssos	Ms Sharpe	<i>Tellers,</i>
Dr Kaye	Mr Shoebridge	Ms Barham
Mr Mookhey	Mr Veitch	Mr Buckingham

Noes, 21

Mr Amato	Mr Gay	Reverend Nile
Mr Blair	Mr Gallacher	Mr Pearce
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mr Harwin	
Mr Clarke	Mr MacDonald	
Mr Colless	Mrs Maclaren-Jones	<i>Tellers,</i>
Ms Cusack	Mr Mallard	Mr Franklin
Mr Farlow	Mrs Mitchell	Dr Phelps

Pairs

Mr Moselmane	Mr Ajaka
Mr Wong	Mr Mason-Cox

Question resolved in the negative.

The Greens amendment No. 11 [C2015-012E] negatived.

The Hon. ADAM SEARLE (Leader of the Opposition) [8.40 p.m.], by leave: I move Opposition amendments Nos 11, 12 and 14 on sheet C2015-010H in globo:

No. 11 Operation of other laws and entitlements regarding employment

Page 12, clause 21 (b), line 33. Insert "unless the new employment does not constitute adequate alternative employment within the public sector or with a private sector employer" after "agency".

No. 12 Operation of other laws and entitlements regarding employment

Page 12, clause 21 (c), line 34. Insert "except as provided by paragraph (b)," before "the person".

No. 14 Operation of other laws and entitlements regarding employment

Page 12, clause 21 (d), line 39. Insert "unless there is no payment to a new employer to meet all outstanding accumulated entitlements in respect of a particular employee" after "long service leave".

Opposition amendment No. 13 no longer has currency. Opposition amendments Nos 11, 12 and 14 remain important amendments because clause 21 (b) on page 12 of the Electricity Network Assets (Authorised

Transactions) Bill provides that the transfer does not constitute a retrenchment, redundancy or termination of employment at the initiative of the Crown or any other public sector agency. What is happening here is the classical redundancy situation where an employer no longer requires any person to perform the work. The operation of law would make those forcible transfers in a classical redundancy situation, but through legislative intervention the Government seeks to make them not so.

The usual test of whether an employer should have to pay a redundancy under the classical industrial instrument is whether or not the employment which a person is being offered or transferred to constitutes adequate alternative employment: That is, if it is the same kind of work on balance and at the same level of importance, seniority, autonomy and conditions of employment as a person who simply does not want the job is not entitled to elect not to take the job and therefore get a redundancy payment. But what if the employment to which a person is being transferred has some important difference? The person might be on the same pay but may not have the same level of autonomy or other things, which may make it a different form of employment. In that case, the exception provided for in Opposition amendment No. 11 should apply. It is also the reason for our consequential amendment No. 12.

Opposition amendment No. 14 addresses clause 21 (d), which provides that a public sector agency is not required to make any payment to the transferred person in relation to the transferred person's accrued rights in respect of annual leave, sick leave or extended or long service leave. We say that is fine but that there should be the exception "unless there is no payment made to the new employer to meet the outstanding liabilities". We are seeking the entitlements for which people have worked and that they have accrued. These are fair, balanced and reasonable amendments that simply safeguard the existing employment entitlements that people have earned but have not yet been paid.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [8.43 p.m.]: The Government opposes Opposition amendment No. 11. The employees can already only transfer on the same terms and conditions or others that are agreed to by the employee, so the question of adequate alternative employment does not arise. We also oppose Opposition amendment No. 12 given that it could expose the taxpayer to paying for employees to receive a voluntary redundancy and also retain their employment, which would be wholly inappropriate. We oppose Opposition amendment No. 14 given that the amendment is not required because the companies will assume the liabilities, including employee benefits.

Dr JOHN KAYE [8.44 p.m.]: The Greens support Opposition amendments Nos 11, 12 and 14 for reasons previously enunciated.

Question—That Opposition amendments Nos 11, 12 and 14 [C2015-010H] be agreed to—put and resolved in the negative.

Opposition amendments Nos 11, 12 and 14 [C2015-010H] negatived.

Dr JOHN KAYE [8.45 p.m.]: I move The Greens amendment No. 12 on sheet C2015-012E:

No. 12 Termination payments—Essential Energy

Page 12. Insert before line 27:

21 Termination payments to employees leaving employment by Essential Energy

- (1) The Treasurer (or another public sector agency designated by the Treasurer) is required to enter into agreements or other arrangements with respect to the making of payments to the persons who were employed by Essential Energy on 1 January 2015, who had at least 1 year of service as at that date and who cease to be employed by Essential Energy for any reason other than:
 - (a) for serious misconduct, or
 - (b) pursuant to the proper application of reasonable disciplinary procedures, or
 - (c) by agreement with the employee.
- (2) A payment under this section is an amount equivalent to:
 - (a) if the employee has at least 1 year of service but less than 2 years—7.5 weeks of the employee's salary, or

- (b) if the employee has at least 2 years of service but less than 3 years—13.125 weeks of the employee's salary, or
 - (c) if the employee has at least 3 years of service but less than 4 years—18.75 weeks of the employee's salary, or
 - (d) if the employee has at least 4 years of service but less than 5 years—22.25 weeks of the employee's salary, or
 - (e) if the employee has at least 5 years of service but less than 6 years—26.25 weeks of the employee's salary, or
 - (f) if the employee has at least 6 or more years of service—30 weeks of the employee's salary.
- (3) A payment under this section is in addition to any other payment to which the person is entitled.
 - (4) In this section, *salary* does not include allowances.

The amendment made more sense in the context of The Greens amendment No. 11. It extends termination payments to Essential Energy employees, 1,400 of whom it appears will lose their jobs. It was simply a way of equating conditions between Essential Energy workers and workers in the other agencies that were to be transferred to the private sector. I move The Greens amendment No. 12 simply because I believe there are good reasons for termination payments for workers in the industry.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [8.46 p.m.]: The Government opposes The Greens amendment No. 12 given that Essential Energy is not being transacted and therefore Essential Energy employees should not be considered in the legislation.

Question—That The Greens amendment No. 12 [C2015-012E] be agreed to—put and resolved in the negative.

The Greens amendment No. 12 [C2015-012E] negatived.

Dr JOHN KAYE [8.47 p.m.]: I move The Greens amendment No. 14 on sheet C2015-012E:

No. 14 Protection of certain electricity works

Page 15. Insert after line 15:

27 Protection of certain electricity works

- (1) In this section:

registered easement means an easement that is registered:

- (a) in the Register kept under the *Real Property Act 1900*, in the case of land under the provisions of that Act, or
- (b) in the General Register of Deeds kept under the *Conveyancing Act 1919*, in the case of any other land.

relevant electricity works means electricity works situated in, on or over land not owned by the authorised network operator having control of those works, whether or not their presence, operation or use is supported by an agreement or other authority, but not any electricity works whose presence in, on or over the land is supported by a registered easement for the benefit of the authorised network operator.

- (2) An authorised network operator is required to send a written notice to each owner of land in, on or over which any relevant electricity works over which the operator has control are situated.
- (3) That notice must:
 - (a) inform the owner that the presence in, on or over the land of the relevant electricity works is not supported by a registered easement in favour of the authorised network operator; and

- (b) inform the owner of the potential consequences under the ES Act of the presence of those electricity works including, but not limited to, the potential consequences under the following sections of that Act:
 - (i) section 49 (Obstruction of electricity works),
 - (ii) section 49A (Excavation work affecting electricity works),
 - (iii) section 51 (Ownership of electricity works), and
- (c) contain an offer to pay the owner fair market value to create and register an easement for the benefit of the network operator that supports the presence, in, on or over the land of the relevant electricity works.
- (4) An owner of land in, on or over which relevant electricity works are situated that has not been given a notice under this section within a period of 5 months after the authorised network operator assumes control of works is entitled to recover rent from the authorised network operator for the presence of the electricity works in, on or over the land.
- (5) Any such rent recoverable is to be at a fair market rate and is to include any arrears in rent accruing from the time at which the authorised network operator assumed control of the electricity works.

The Greens amendment No. 14 relates largely to clause 25, which extends to the transacted undertakings and protections that apply under section 53 of the Electricity Supply Act. Section 53 of the Electricity Supply Act was substantially modified in 2006 to protect a number of informal easements. At that time where works belonging to the distribution and transmission undertakings of the State existed on private land for which there was no formal easement the Act authorised the continued existence of those works.

For example, where there was a power line over a piece of private land, perhaps supplying a neighbour, for which there was no formal easement, or no formal agreement with the private owner of the land, it authorised the continued existence of that line and took away any cause of action that the private landowner might have against the utility. That bill was passed in 2006. If one refers to *Hansard*, one will see that at that time concerns were raised by a number of members of Parliament that referred specifically to the idea that private property was being compromised by effectively granting an easement without compensation to the distribution and transmission agencies.

Reverend the Hon. Fred Nile: It was not an easement.

Dr JOHN KAYE: It was effectively an easement. Reverend the Hon. Fred Nile is correct: it was not an easement. The fact that it is not an easement makes it much worse, and I will deal with that in more detail presently. It removes any cause of action against the presence of the electricity works on, above, or below private land. Reverend the Hon. Fred Nile is quite correct: it is not an easement. The very fact that it is not an easement has consequences because sections 49, 49A and 51 of the Electricity Supply Act further authorise removal of any structure which the distribution network service provider or the transmission network service provider believes threatens the safety or security of the works. It allows for forced access to the land and in some cases it allows for recovery of costs for action on that land. Where there is an easement, the action of those sections largely is limited to that easement. When there is no easement, the effect of sections 53, 49 and 51 is for a deemed area—in effect, a deemed easement. By that I mean it is up to the electricity supply agency to say that a particular structure—for example, on private land—is a risk to the electricity works.

In the debate that occurred in 2006 in this Chamber and in the Legislative Assembly, those concerns effectively were mollified by the argument that the agencies were public sector agencies that have responsibilities through the Minister and through the action of a democratically elected government. That justification will be removed by this legislation. In effect, a private company now has protections—which originally were afforded to a public sector agency for land for which there is no easement, land for which there is no formal agreement and land for which there are no formally defined boundaries—for action in respect of that ownership. I have some concerns that what will happen, in effect, is that that land, which was previously owned privately but whose use was protected by a public sector agency, will now be used by a private sector agency without political feedback. Without the feedback associated with public sector ownership, we will allow a private sector agency or a private sector undertaking to exercise those rights.

The Greens amendment No. 14 seeks to require, when there is not a registered easement, the distribution or transmission private sector agency to inform the owner of the presence in, over, above, under or on the land of the relevant electricity works and inform them it is not supported by a registered easement in

favour of the authorised network operator. The amendment will also serve to have the owner informed of the potential consequences—under sections 49, obstruction of electricity works; 49A, excavation work affecting electricity works; and 51, ownership of electricity works—under the Electricity Supply Act. The amendment will also require an offer be made to pay the owner fair market value to create and register an easement for the benefit of the network operator. The intention is to ensure that easements that have been informal under public ownership become formal under private ownership because, in the absence of public ownership, there are risks that those powers will be used in a fashion that is adverse and unnecessary.

The owner of the land should be given notice within a period of five months after the authorised network operator assumes control of the works. If there has not been a settlement, the owner is entitled to recover rent from the authorised network operator at a fair market rate. This is to protect private property. I would have thought that the Liberals and Nationals would have some concern for the protection of private property. I would have thought they would be concerned to ensure that what had been private property being used by a public undertaking, which is a market-oriented or private undertaking, would be protected in this fashion. I commend the amendment to the Committee.

The Hon. ADAM SEARLE (Leader of the Opposition) [8.55 p.m.]: The Opposition will support the amendment.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) [8.55 p.m.]: The Government will oppose the amendment, given it represents a significant departure from what is in place today for the network businesses. Moreover, it is significantly different from what is in place for linear infrastructure in a range of sectors across the Commonwealth of Australia. The proposed changes to the Electricity Supply Act offer adequate protection to private landowners.

Mr DAVID SHOEBRIDGE [8.56 p.m.]: I support the amendments moved by my colleague Dr John Kaye. The powers that are given under the existing Electricity Supply Act are extraordinary powers that can be exercised adversely against any property owner that potentially has the misfortune of having any electricity works on their premises. That might be a substation; it might be a substation in the bottom of an apartment block; in certain country areas, that might be a long transmission line from the main transmission line to the farmhouse, or to sheds or other works, or other outbuildings or places where electricity is required on a large rural property. At present there is some degree of comfort with plenary and extraordinarily broad powers lying with the current distribution networks because they are publicly owned enterprises and they are subject to some type of restraint, one would hope, because of democratic responsibility through the Parliament and the Executive.

But once they are in private hands—in the hands of a foreign corporation or any private corporation whose primary interest is profit and who is not constrained by any democratic check and balance on how it exercises its powers—what is there in the current law that will constrain the provider to exercise those extraordinary powers in such a way that the very legitimate rights of individual property owners are respected? I listened carefully to the Government's response to the proposition and amendment advanced by my colleague Dr John Kaye, which was just like, "Oh, it'll be right. She'll be right. We don't have to worry about that. We'll just give them these extraordinary powers. We'll just hand it over to a private corporation. Don't you worry about that." I think most people in New South Wales would be deeply worried that their Government was thinking about handing over these types of powers to a private corporation without even seriously engaging in the debate as to how property owners' rights will be protected.

When one reads the powers given under section 49 and section 49A of the Electricity Supply Act, effectively notice can be given to a property owner. Then if, in the opinion of the owner of the transmission network, some building, structure, vegetation or whatever is obstructing the supply of electricity—bang!—it can go in and demolish it. No right of review. What is the response of the Government? "She'll be right. Don't you worry, these nice foreign multinationals will do it in a way that respects your property wherever it is found in New South Wales." Is that seriously the considered response from the Government of the day? Just do not worry about it, just accept it, give the power to demolish after the issuing of a notice with no checks and balances to foreign corporations when we privatise the network? I find that to be an extraordinary response from a government that says it is conservative and one that at different times has said it believes in the rights of private property and private individuals to be free from this kind of arbitrary seizure and destruction.

This is a crucial amendment that instead of providing an unregulated plenary power to a private corporation will require it to regularise the rights and easements through the Real Property Act in a way that

will protect the legitimate rights of landowners and people who have often spent their entire life savings paying for a mortgage in Sydney. Yet the Government thinks, "Don't worry about that. Just let them demolish at will." They will issue a notice and knock over your house. To say that the Government's response is disrespectful, that it has apparently given scant regard to these core issues, is an understatement. I know it is late. I know that the Government wants this debate to be ended, but the people of New South Wales expect more.

Dr JOHN KAYE [9.01 p.m.]: I want to add to what my colleague Mr David Shoebridge said. I take the Committee back to the Legislation Review Digest No. 6 of 2006 of the Legislation Review Committee which reviewed a bill to insert and strengthen clause 53 into the then Act. The Committee noted that this bill constitutes a trespass of "the common law rights of a landowner or occupier" to seek redress for the nuisance-making action of a network operator. Even at that time the Legislation Review Committee charged with looking at the way in which legislation might trample on the rights of individuals raised serious concerns. It stated:

The Committee refers to Parliament whether this limitation on the ability to seek judicial redress for nuisance is an undue trespass on the individual rights of landowners or occupiers

This is not a trivial matter. The then Minister for Energy, Joe Tripodi, told the Legislative Assembly:

Around 44 per cent of the electricity network in New South Wales was built decades ago on land over which network operators now do not have a formal easement or ownership.

That means 44 per cent of what is going into private hands under private control, with powers which the Legislative Review Committee was very concerned about, is now falling into private hands. I would have thought that a Liberal-Nationals Government would be very concerned about private property rights but it appears that neoliberalism has its limits. It appears that, when it threatens to interfere with the Government's get-rich-quick scheme, its sugar hit, its cash-grab to its building program, suddenly the individual rights of property are not that important. I can see the writing on the wall, this amendment will not get up, but I promise the Committee that the first time the private owners act adversely, it will come straight back on all of us—

The Hon. Adam Searle: Not us.

Dr JOHN KAYE: Not the Labor Party and not The Greens, but it will come straight back on the rest of this Chamber for having denied the protection that we sought to give to those landowners from a private network operator.

Question—That The Greens amendment No. 14 [C2015-012E] be agreed to—put.

The Committee divided.

Ayes, 15

Ms Barham	Mr Mookhey	Ms Voltz
Mr Buckingham	Mr Primrose	
Ms Cotsis	Mr Searle	
Mr Donnelly	Mr Secord	<i>Tellers,</i>
Dr Faruqi	Ms Sharpe	Dr Kaye
Mrs Houssos	Mr Veitch	Mr Shoebridge

Noes, 21

Mr Ajaka	Mr Gallacher	Reverend Nile
Mr Amato	Mr Gay	Mr Pearce
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mr Harwin	
Mr Clarke	Mr MacDonald	
Mr Colless	Mrs Maclaren-Jones	<i>Tellers,</i>
Ms Cusack	Mr Mallard	Mr Franklin
Mr Farlow	Mrs Mitchell	Dr Phelps

Pairs

Mr Moselmane
Mr Wong

Mr Blair
Mr Mason-Cox

Question resolved in the negative.

The Greens amendment No. 14 [C2015-012E] negatived.

The Hon. ADAM SEARLE (Leader of the Opposition) [9.13 p.m.]: I move Opposition amendment No. 15 on sheet C2015-010H, which deals with licensing:

No. 15 Licensing

Page 19, clause 36. Insert after line 23:

- (3) The Minister must publish the terms and conditions of any licence proposed to be granted in accordance with the Treasurer's request at least 3 months before the proposed licence is granted.

The licensing provisions are found on page 19 of the bill, in clause 36. We propose that the Minister must publish the terms and conditions of any licence proposed to be granted at least three months before the licence is granted. The reason we propose this is that the licensing regime is said to be one of the core safeguards for consumers, provided in the Government's package. New stringent licensing requirements for network operators are said to provide safety, security and reliability standards and the like, yet we have not had the benefit of having those disclosed in the public domain.

A core feature of the Government's regime is those step-in rights, triggered in part by the licensing regime. How can this House pass judgement or be satisfied about the security that those provisions afford the community when we do not know what the key driver—the licences and the licensing conditions—is? In order that we are not left in the dark and that there is a greater level of public transparency, we think these terms must be published. There is no commercial-in-confidence about these, because these are monopoly businesses. There is only one in New South Wales. Whoever is selected by the Government to be the purchaser will be the only business in town running these businesses.

The Hon. Duncan Gay: Except for Essential Energy.

The Hon. ADAM SEARLE: I acknowledge the interjection. We are only talking about those entities which are the subject of the lease.

The Hon. Duncan Gay: It is not the only business in town.

The Hon. ADAM SEARLE: I acknowledge that interjection, as well. The fact is that Ausgrid is not in competition with Essential Energy. Endeavour Energy is not in competition with Essential Energy. They have separate spheres of operation, so they are monopoly businesses. Therefore there is no commercial-in-confidence that would attach to the licensing conditions or arrangements, and they should be in the public domain. It is a key driver of the Government's regime.

If one looks at the step-in rights on page 60 of the bill you find that one of the key triggers for the step-in rights is the cancellation or, more likely, the breaching of a network operator's licences. That sounds like a good safeguard but how do we know whether it is even worth the paper it is written on if we do not know what those licensing conditions are? I will not labour the point. In the interests of transparency, the licences and their conditions should be in the public domain.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [9.16 p.m.]: The Government opposes the Opposition amendments, given that the situation is that IPART will follow its current practices in relation to publishing the terms of a licence under the Electricity Supply Act 1995. It is not appropriate to change the existing practices.

Dr JOHN KAYE [9.17 p.m.]: As I understand it, the licences are published by IPART—I am just going from memory here—after they have been granted, not before they have been granted. The only difference this amendment would make is that the licences would be available publicly three months before they are granted. I do not see what harm is done by that, and I can see an awful lot of good that would be done by this

amendment, given that these are licences for private sector monopolies. This legislation is critically different from what we have done in the past. I think this is a sensible amendment to allow for some public comment on these licences before they are put into action.

Question—That Opposition amendment No. 15 [C2015-010H] be agreed to—put and resolved in the negative.

Opposition amendment No. 15 [C2015-010H] negatived.

The Hon. ADAM SEARLE (Leader of the Opposition) [9.18 p.m.]: I move Opposition amendment No. 16 on sheet C2015-010H:

No. 16 Coastal protection—concurrence required

Page 20, clause 40, lines 26–28. Omit all words on those lines.

As a result of having received a briefing from Treasury officials, some of whom are present in the gallery tonight, I understand some of the other provisions in the legislation, such as the planning law exemption provided for on page 19 in clause 39, but I do not understand the rationale for exempting the authorised transaction process from requiring the concurrence of the Minister under the relevant provisions of the Coastal Protection Act.

Without understanding the rationale, it seems to me that this is a watering down of important environmental protections, and that ought not to be allowed. We had the debate earlier on one of the amendments proposed by Dr John Kaye about what happens when rights and powers currently enjoyed by State-owned and controlled network operators are transferred because of these authorised transactions to private corporations. The public policy rationale underpinning and giving those extraordinary rights and powers to a public enterprise does not apply in the same way to a private-for-profit enterprise in the hands of only private interests. That does not mean one would not do it; it just means that one may need some additional safeguards. I thought that the provisions of the Coastal Protection Act might be one of those areas where we would want to ensure that those provisions continue to apply, but I would be happy to have an explanation as to why clause 40 is in the bill.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [9.20 p.m.]: In relation to Opposition amendment No. 16, this is certainly not a watering down. The networks lease will authorise the use of existing assets for which concurrence has already been obtained through proper procedure at the time of development. As such there is no need for ministerial concurrence for the grant of the existing networks lease.

Dr JOHN KAYE [9.21 p.m.]: Is the Minister saying that the leased undertakings will never build a new asset, will never seek to build a new transmission line, will never seek to put in place a new transformer or a new substation, will never seek to bury another cable? I find that very hard to believe? These will be assets, there will be asset expansion, and that expansion will happen in areas where there are coastal protection issues.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [9.21 p.m.]: That is not what I said. I said that it was on the use of existing assets.

Question—That Opposition amendment No. 16 [C2015-010H] be agreed to—put and resolved in the negative.

Opposition amendment No. 16 [C2015-010H] negatived.

Dr JOHN KAYE [9.22 p.m.]: I move The Greens amendment No. 15 on sheet C2015-012E:

No. 15 Leases, orders and other documents to be released to Legislative Council

Page 25. Insert after line 1:

49 Leases, orders and other documents to be released to Legislative Council

- (1) An order is taken to have been made under Standing Order No. 52 of the Legislative Council for the tabling in the Legislative Council by the Government of the following documents under this Act, subject to any claim of privilege made and dealt with in accordance with that Standing Order:
 - (a) any lease of network infrastructure assets to the private sector,
 - (b) any licence granted by the Minister under the ES Act in accordance with a request of the Treasurer under section 36,

- (c) any order made by the Treasurer under this Act that has not been made public by the Treasurer,
 - (d) any other documents relating to an authorised transaction that have not been made public.
- (2) That order is taken to require the tabling of the documents:
- (a) in the case of a lease—no later than 7 days after the lease is signed, or
 - (b) in the case of a licence—no later than 7 days after the licence is granted, or
 - (c) in the case of an order made by the Treasurer—no later than 7 days after the order is made, or
 - (d) in any other case—no later than 7 days after the document comes into existence.

This enacts the often repeated statements of the Treasurer and the Premier that this is a fully accountable transaction. As the Premier has said over and over again, nothing could be more transparent. If they are really serious about that, they will support my proposed clause 49. The Greens seek to have the same effect as a Standing Order 52 call for documents over four separate kinds of documents—the lease of the network infrastructure assets, licences granted by the Minister, any orders made by the Treasurer under the Act that have not already been made public and any other documents relating to an authorised transaction that have not been made public.

This is about accountability. It does not mean those documents are being published. The Government can obviously assert privilege over a number of those documents and privilege can be challenged in the ordinary way with a vote of the House to lift that privilege if the House sees fit. It is not about putting all these documents in the public domain. It is about putting as many as possible in the public domain and allowing the House to be the ultimate arbiter of what should or should not be in the public domain. Historically no damage has been done under Standing Order 52 and an awful lot of good has been done. Members of this House exercise extreme caution.

The Hon. Duncan Gay: That is rose-coloured glasses.

Dr JOHN KAYE: I will take that reflection on the votes of the House from the Leader of the Government. I think the House has been quite judicious in the way it has dealt with issues of privilege. I have had requests for the lifting of privilege knocked back and I have had requests for the lifting of privilege granted. In most cases the House has erred on the side of being abundantly cautious. However, it is essential there is in the public domain sufficient information so that people can understand what the transaction was and so the Government knows that transaction documents are in the public domain to make sure that all of the transactions are appropriately conducted. I commend the amendment to the Committee.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [9.24 p.m.]): The Government opposes The Greens amendment No. 15. Appropriate government protocols will be followed for the publication and tabling of documents relating to the transaction. There is no need for any specific provisions that depart from the processes adopted in previous transactions of this type.

The Hon. ADAM SEARLE (Leader of the Opposition) [9.25 p.m.]: Because of the public policy reasoning embedded in some of our earlier amendments to do with the disclosure of the lease and disclosure of the licences and the like, we support these amendments.

Question—That The Greens amendment No. 15 [C2015-012E] be agreed to—put and resolved in the negative.

The Greens amendment No. 15 [C2015-012E] negatived.

Reverend the Hon. FRED NILE [9.26 p.m.], by leave: I move Christian Democratic Party amendments Nos 4 to 22 on sheet C2015-008H in globo:

No. 4 **Employment guarantee period**

Page 36. Insert after line 7:

Schedule 4 Employment guarantees

1 Employment guarantee period

For the purposes of this schedule, there is a 5-year *employment guarantee period* starting on 1 July 2015 and ending on 30 June 2020.

No. 5 **Salary**

Page 36. Insert after line 7:

2 Salary

A continuing employee's salary under an enterprise agreement cannot be varied during the employment guarantee period except in accordance with the *Fair Work Act 2009* of the Commonwealth.

No. 6 **Minimum number of employees**

Page 36. Insert after line 7:

3 Minimum number of employees

- (1) For each relevant period during the employment guarantee period, the number of full time equivalent employees of a network operator must not be less than the appropriate staffing level for the relevant electricity network SOC.
- (2) The *appropriate staffing level* for an electricity network SOC is the number of full time equivalent employees that is sustainable in the context of business revenue resulting from the AER Final Determination for the SOC as determined in accordance with the business practices of the SOC, being:
 - (a) for Ausgrid—3,570 full time equivalent employees, or
 - (b) for Endeavour Energy—2,100 full time equivalent employees, or
 - (c) for TransGrid—1,000 full time equivalent employees.
- (3) For a network operator that is not an electricity network SOC, the *relevant electricity network SOC* is the electricity network SOC whose former distribution or transmission system is controlled or operated by the network operator.
- (4) If a relevant amendment is made to the AER Final Determination for an electricity network SOC, the Treasurer must engage a suitably qualified and independent person (*the independent expert*) to determine whether any adjustment to operating expenditure allowance or capital expenditure allowance resulting from the relevant amendment would be applied in accordance with the business practices of the SOC as an adjustment to the appropriate staffing level of the SOC.
- (5) The Treasurer must give effect to any determination of the independent expert for any adjustment to the appropriate staffing level for the SOC by notifying the adjustment by order published in the Gazette. The adjustment then has effect for the purposes of this schedule at the beginning of the next relevant period.
- (6) A *relevant amendment* is:
 - (a) a change to the AER Final Determination resulting from a merits review or judicial review of the AER Final Determination (including any appeal from such a review) that changes the operational expenditure allowance or capital expenditure allowance for the network operator, or
 - (b) a new determination of the AER for the regulatory control period following the regulatory control period to which the AER Final Determination applies that results in a change to the operational expenditure allowance or capital expenditure allowance in the AER Final Determination for the network operator.

Note. This clause does not override or otherwise interfere with the rights of any individual employee in relation to termination of employment or redundancy that arise under a law of the Commonwealth or an industrial instrument made under a law of the Commonwealth.

No. 7 **Voluntary redundancies**

Page 36. Insert after line 7:

4 Voluntary redundancies

A continuing employee may be offered voluntary redundancy in accordance with the terms and conditions of an enterprise agreement or a redundancy policy that applies to the employee.

No. 8 **Forced redundancies**

Page 36. Insert after line 7:

5 Forced redundancies

There are to be no forced redundancies of continuing employees during the employment guarantee period, except by agreement between the affected employees (or a person authorised to act on their behalf or on behalf of a majority of them) and the employer, or in accordance with the *Fair Work Act 2009* of the Commonwealth.

No. 9 **Leave entitlements**

Page 36. Insert after line 7:

6 Leave entitlements

An employee whose employment is transferred under this Act retains any rights to annual leave, extended or long service leave or sick leave accrued or accruing immediately before the transfer (except accrued leave for which the employee has, on ceasing to be an employee of the current employer, been paid the monetary value in pursuance of any other entitlement of the employee).

No. 10 **Recognition of service**

Page 36. Insert after line 7:

47 Recognition of service

The continuity of the employment of a continuing employee is taken not to have been broken by a transfer of employment under this Act, and service of the employee with the employee's current employer (including service deemed to be service with that employer) that is continuous service up to the time of transfer is deemed for all purposes to be service with the new employer.

No. 11 **Enforcement of obligations**

Page 36. Insert after line 7:

8 Enforcement of obligations

- (1) The Independent Pricing and Regulatory Tribunal is responsible for monitoring and enforcing the obligations of an employer under this schedule.
- (2) In addition, a relevant employee guarantee is enforceable by an affected employee or a person authorised to act on behalf of an affected employee or a majority of affected employees. A **relevant employee guarantee** is a guarantee provided by this schedule (except clauses 3, 9 and 15).
- (3) The Tribunal may direct an employer to take, within a specified time, any action that the Tribunal determines to be necessary to remedy any failure by the employer to comply with its obligations under this schedule or to prevent the continuance or recurrence of such a failure.
- (4) An employer must comply with a direction of the Tribunal under this clause. Maximum penalty: 5,000 penalty units.
- (5) This section does not limit the persons who are entitled to enforce the terms and conditions of an enterprise agreement under the *Fair Work Act 2009* of the Commonwealth.

No. 12 **Existing locations**

Page 36. Insert after line 7:

9 Existing locations

- (1) A network operator must, for the duration of the employment guarantee period, maintain an administrative office, depot or other administrative centre within the vicinity of an existing administrative location that is in the area of operations of its distribution or transmission system.
- (2) An **existing administrative location** is an area in which an existing administrative office, depot or other administrative centre is operated by an electricity network SOC on the commencement of this Act.

No. 13 **Relocation policies**

Page 36. Insert after line 7:

10 Relocation policies

- (1) Any employee relocation policy (*the existing policy*) that was applicable to continuing employees on the commencement of the employment guarantee period must be maintained in its application to those employees for the duration of the employment guarantee period.
- (2) The existing policy cannot be amended during the employment guarantee period except by agreement between the affected employees (or a person authorised to act on their behalf or on behalf of a majority of them) and the employer, or in accordance with the *Fair Work Act 2009* of the Commonwealth.

No. 14 **Enterprise agreements**

Page 36. Insert after line 7:

11 Enterprise agreements

An enterprise agreement cannot be varied in its application to a continuing employee during the employment guarantee period except in accordance with the *Fair Work Act 2009* of the Commonwealth.

No. 15 **Superannuation**

Page 36. Insert after line 7:

12 Superannuation

- (1) A continuing employee is entitled to continue as a contributor, member or employee for the purposes of any superannuation scheme in respect of which he or she was a contributor, member or employee as an employee of an electricity network SOC on the commencement of this Act and remains so entitled subject to any variation to that entitlement made either by agreement or otherwise in accordance with law.
- (2) The employer of the continuing employee is taken to be an employer for the purposes of any superannuation scheme in respect of which the employee continues as a contributor, member or employee pursuant to an entitlement under this clause.
- (3) The employer of a continuing employee is not entitled to access funds deposited in a superannuation account of the employee unless that access is permitted by a law of the State or the Commonwealth.
- (4) The operation of this clause is not limited to the employment guarantee period.

No. 16 **Disputes**

Page 36. Insert after line 7:

13 Disputes

Any dispute that concerns a relevant employee guarantee may be resolved in accordance with the *Fair Work Act 2009* of the Commonwealth or any dispute resolution process applicable to the employee. A *relevant employee guarantee* is a guarantee provided by this schedule (except clauses 3, 9 and 15).

No. 17 **Existing apprentices**

Page 36. Insert after line 7:

14 Existing apprentices

- (1) An apprentice who completes their training while a continuing employee during the employment guarantee period and who meets reasonable business hiring standards of the employer must be offered suitable employment.
- (2) Employment is *suitable* employment if it is employment in a trade that is relevant to the training in which the person was engaged as an apprentice.
- (3) The employment of a person pursuant to an offer of employment under this clause cannot be terminated for a period of 2 years after that employment commences (even if that 2 year period extends beyond the employment guarantee period), except:
 - (a) for serious misconduct, or
 - (b) pursuant to the proper application of reasonable disciplinary procedures, or
 - (c) by agreement with the employee.

No. 18 **Future apprentices**

Page 36. Insert after line 7:

15 Future apprentices

- (1) If the number of full time equivalent employees of a network operator for the final relevant period of a financial year within the employment guarantee period is less than or equal to 110 per cent of the appropriate staffing level for the network operator, a sufficient number of apprentices must be employed during the following financial year (as new employees of the network operator) to achieve the guaranteed apprenticeship intake for the relevant electricity network SOC.
- (2) The *guaranteed apprenticeship intake* is:
 - (a) for Ausgrid—25 apprentices, or
 - (b) for Endeavour Energy—10 apprentices, or
 - (c) for TransGrid—5 apprentices.
- (3) For a network operator that is not an electricity network SOC, the *relevant electricity network SOC* is the electricity network SOC whose former distribution or transmission system is controlled or operated by the network operator.
- (4) The following financial year to which a guaranteed apprenticeship intake applies need not be within the employment guarantee period.

No. 19 **Cadets, trainees and graduate engineers**

Page 36. Insert after line 7:

16 Cadets, trainees and graduate engineers

A person employed as a cadet, trainee or graduate engineer is an employee for the purposes of this schedule (including for the purposes of employee guarantees under this schedule).

No. 20 **Fixed term employees**

Page 36. Insert after line 7:

17 Fixed term employees

- (1) A fixed term employee is an employee for the purposes of this schedule (including for the purposes of employee guarantees under this schedule).
- (2) In this clause, *fixed term employee* means an employee whose terms and conditions of employment are provided by an individual contract that provides for a fixed term of employment and not by an award, agreement or other industrial instrument (under a law of the State or the Commonwealth) that provides for the terms and conditions of employment of employees.

No. 21 **Contract employees**

Page 36. Insert after line 7:

18 Contract employees

- (1) A contract employee is an employee for the purposes of this schedule (including for the purposes of employee guarantees under this schedule).
- (2) In this clause, *contract employee* means an employee whose terms and conditions of employment are provided by an individual contract and not by an award, agreement or other industrial instrument (under a law of the State or the Commonwealth) that provides for the terms and conditions of employment of employees.

No. 22 **Machinery provisions**

Page 36. Insert after line 7:

19 Proceedings for offences

- (1) Proceedings for an offence under this schedule may be dealt with summarily before the Local Court or before the Supreme Court in its summary jurisdiction.

- (2) If proceedings for an offence to which this clause applies are brought in the Local Court, the maximum penalty that the Court may impose in respect of the offence is, despite any other provision of this schedule, \$50,000 or the maximum penalty provided by this schedule, whichever is the lesser.
- (3) If proceedings for an offence to which this clause applies are brought in the Supreme Court in its summary jurisdiction, the Supreme Court may impose a penalty not exceeding the maximum penalty provided by this schedule in respect of the offence.

20 Interpretation—employees of network operator

- (1) A person is an employee of a network operator for the purposes of this schedule if the person carries out work solely or primarily in connection with the business of the network operator and is employed by:
 - (a) the network operator, or
 - (b) an associated entity of the network operator, or
 - (c) an entity that provides the services of the person exclusively to the network operator on an ongoing basis.
- (2) An entity is an *associated entity* of a network operator if:
 - (a) the network operator has an ownership interest in the entity or the entity has an ownership interest in the network operator, or
 - (b) another entity has an ownership interest in both the entity and the network operator.

21 Calculation of number of full time equivalent employees

- (1) The number of full time equivalent employees of a network operator for a relevant period is to be calculated for the purposes of this schedule as $F + A/B$, where:

F is the average number of full time employees of the network operator during the relevant period.

A is the total number of hours worked during the relevant period by all part time employees of the network operator.

B is the average number of hours worked during the relevant period by all full time employees of the network operator.
- (2) To calculate the average number of hours worked by full time employees of an employer, overtime is to be excluded.
- (3) In this clause:

full time employee means an employee whose standard or average hours of work per week is 35 hours or more.

part time employee means an employee who is not a full time employee.

22 Obligations of controller and operator as single entity

If the controller and operator of a distribution or transmission system are separate entities (with the result that each is a network operator of the distribution or transmission system), an obligation of the network operator under this schedule is an obligation of the controller and operator combined, as if they were a single entity.

Note. For example, the minimum number of employees provided for by this schedule applies to the total employee numbers of both the controller and the operator.

23 Definitions

In this schedule:

AER Final Determination for an electricity network SOC means the determination of the AER for the electricity network SOC published on 30 April 2015.

continuing employee means:

- (a) an employee of an electricity network SOC, or
- (b) an employee whose employment is transferred under this Act.

employment guarantee period means the period of 5 years starting on 1 July 2015 and ending on 30 June 2020.

network operator means each of the following:

- (a) Ausgrid,
- (b) Endeavour Energy,
- (c) TransGrid,
- (d) any public sector agency that becomes a network operator of the distribution system or transmission system of Ausgrid, Endeavour Energy or TransGrid for the purposes of an authorised transaction,
- (e) an authorised network operator (meaning an entity that controls or operates a transacted distribution system or transacted transmission system).

relevant period means a period of 3 months commencing on 1 July, 1 October, 1 January or 1 April in each year.

Christian Democratic Party amendment No. 4 provides for a five-year employment guarantee period. All the employment guarantees that I move as amendments in this debate will apply for that five-year period, with the exception of the superannuation protections that will apply in perpetuity. The employment guarantee period will commence on 1 July 2015 and conclude on 30 June 2020. That five-year employment protection is consistent with the recommendations of the Legislative Council inquiry that I chaired and is consistent with the position of Unions NSW, which I have consulted regarding employee protections.

Amendment No. 5 delivers on the recommendation of the Legislative Council inquiry and ensures that an employee's salary in his or her enterprise agreement cannot be varied during the five-year guarantee period except in accordance with the Fair Work Act. That means that the new lessee cannot unilaterally reduce the salary of workers without going through the negotiation process as set out in the Fair Work Act. That will give workers the protections they need while still allowing the employer and the employee to negotiate on enterprise agreements as appropriate.

Amendment No. 6 is a very important amendment. As we know, the Australian Energy Regulator [AER] in its most recent determination has cut funding to network businesses so we cannot guarantee employment positions that the regulator has not provided funding for. With respect to those employees who are not funded because of the AER's ruling, I am advised that the Government remains in discussions with the Electrical Trades Union about looking after those employees whose positions are not funded, and that the Government has a very strong commitment to look after them and make sure they get their full entitlements.

Under this amendment the new lessees will be required to maintain a minimum number of employees and each of the businesses that are subject to the lease. Those employment levels are: 3,570 full-time equivalent employees at Ausgrid, 2,100 full-time equivalent employees at Endeavour Energy and 1,000 full-time equivalent employees at TransGrid. Those employment levels have been calculated based on the sustainable number of employees who can be employed based on the funding provided by the Australian Energy Regulator and total 6,670 employees.

Under this amendment if the Australian Energy Regulator determination changes, either as a result of the current appeal or if a new determination is handed down, the minimum number of employees will also change. For example, if the AER increases operating or capital expenditure allowances for the network, the minimum number of employees will be increased. That will be done by an independent expert who can calculate the number of positions that must be provided under that new determination. Combined with the other amendments I am moving to ensure there are no forced redundancies, this amendment means that every employee funded under the new AER determination has a job for the five-year employment guarantee period unless he or she chooses to take voluntary redundancy.

Amendment No. 7 provides for employees to take voluntary redundancy if they so choose. The ability to take voluntary redundancy has been a feature of all government transactions. The voluntary redundancy provisions for employees in the electricity businesses are very good. They mean that employees can receive a significant payment if they choose to leave the businesses. For example, the redundancy payment for Ausgrid employees is generally 13 weeks pay plus three weeks pay for each year of service with no capped maximum. An employee with 30 years service would receive 103 weeks pay. That is almost two years of pay.

These payments are in addition to accrued annual leave and long service leave to which they are entitled. The voluntary redundancy payment at Endeavour Energy is generally 13 weeks pay plus two weeks for each year of service, and that figure is also uncapped. In addition, those employees who commenced their service before 1996 would receive an additional two weeks pay for each year of service as a maturing allowance paid out on retirement or redundancy. For example, an Endeavour Energy award employee with 30 years of service would receive 133 weeks pay, which is 2.5 years of pay.

Amendment No. 8 prohibits forced redundancies during the five-year employment guarantee period unless that is allowed by agreement between the employer and the employees or in accordance with the Fair Work Act. This means that the new lessee cannot forcibly retrench the workforce once the transaction occurs. All redundancies will have to be voluntary. That is an important protection for workers. Like all the protections that I am proposing that relate to the enterprise agreements at those businesses, these protections cannot be changed without going through the negotiation process provided for in the Fair Work Act.

Amendment No. 9 ensures that all leave entitlements, including annual leave, sick leave and long service leave, are preserved for all employees who transfer to the new lessee. This amendment is in accordance with the recommendations of the Legislative Council inquiry. Amendment No. 10 also delivers on the recommendations of the Legislative Council inquiry. It ensures that all service recorded by an employee under the existing employer is recognised by the new employer. That means that if employees have worked for Ausgrid for 10 years and transfer across to the new lessee and then decide to take voluntary redundancy, they will receive the benefit of those 10 years of service when their redundancy payment is calculated. It also means for the purpose of calculating long service leave that the service under the existing network business will be counted towards long service leave entitlements under the new lessee.

Amendment No. 11 relates to enforcement of obligations. It is important that these employee protections are able to be enforced and that employees know they will be enforced. This amendment ensures that the new lessee knows that these employment guarantees cannot be ignored and must be complied with. Employment protections can be enforced in two ways. First, the Independent Pricing and Regulatory Tribunal [IPART] will have responsibility for ensuring that all the employment guarantees are complied with. The IPART is independent of the Government and is the appropriate body to enforce these protections.

This amendment also gives IPART the power to direct an employer to comply. If it does not, the penalty is up to \$550,000. That is particularly important for the protections that relate to employment protections in general, such as the overall minimum number of employees, protections for existing locations, and protections for future apprentices. Secondly, the protections that relate to individual enterprise agreements or contracts of employment, which is everything apart from the general protections I have just described, will also be enforceable by employees or their unions under this legislation or through the dispute resolution provisions of the Fair Work Act.

Amendment No. 12 provides that existing depots and offices must be maintained for the five-year employment guarantee period. That will give workers the certainty that the new lessee will not be able to shut down existing offices and depots immediately after the transaction takes place. Importantly, some flexibility is built into the amendment to allow the businesses to relocate depots and offices within the same vicinity. That will allow for necessary or sensible changes. For example, a property lease might have ended and it might not be possible to renew it, or the depot or office might need to be upgraded.

Amendment No. 13 delivers on the recommendations of the Legislative Council inquiry. The businesses have relocation policies that protect the rights of employees. If a business would like an employee to move to a new location under those policies it can require the move, providing the place of work remains within a reasonable travelling time from the employee's home. In these circumstances, the employees are provided with a travel allowance for six months. The business does not have the ability to force an employee to relocate if it would require a change of place of residence. If the employee agrees to relocate, the relocation costs are to be paid by the business. For example, an employee could be required to move from Chatswood to Hornsby but not from Chatswood to Singleton—which, as members know, is in the country. This amendment provides that those relocation policies will not be able to be changed during the five-year employment guarantee period unless by agreement with the employees or in accordance with the Fair Work Act. That will provide certainty for workers that the new lessee will not be able to force them to move to unreasonable new locations.

Amendment No. 14 provides that employees' enterprise agreements cannot be changed unless by agreement with the employees or in accordance with the Fair Work Act. That means the new lessee cannot

unilaterally change terms and conditions for employees without going through the well-established process provided for in the Fair Work Act involving negotiation with employees or their unions. Amendment No. 15 is an important amendment. It ensures that the current superannuation arrangements for employees in both defined benefit and accumulation funds are continued. That means employees will retain all their rights in relation to their existing superannuation funds and will continue to contribute to those same funds if they so choose.

Combined with the other amendments that protect existing enterprise agreements, this amendment means that existing employer contributions above the superannuation guarantee level will also continue. It will also ensure that employees' superannuation funds are protected from the employer and that the employer cannot raid or access the funds deposited in the employees' superannuation accounts. This amendment addresses fears that have been raised about what has happened in other business dealings. Importantly, it will not operate only for five years; it will continue in perpetuity so that employees can be assured that their superannuation is always protected. Workers need that guarantee.

Amendment No. 16 ensures that any disputes can be resolved either in accordance with the Fair Work Act, the relevant enterprise agreement or any other process available to the employee. This is consistent with a proposal in the Unions NSW submission to the Legislative Council inquiry. Amendment No. 17 deals with existing apprentices. The Legislative Council inquiry heard how important it was that apprentices continue to have employment opportunities in electricity network businesses. I feel strongly about this issue. This amendment provides that all apprentices who complete their apprenticeships during the five-year guarantee period must be offered suitable employment by the network business, and they must be guaranteed employment for two years after that point, even if it extends beyond the five-year employment guarantee period.

Amendment No. 18 relates to future apprentices. It is important not only to protect existing apprentices but also to ensure opportunities exist for new apprentices to join the network businesses in the future. This amendment will ensure that businesses have the skilled young people they need to be successful in the coming years as the existing workforce retires. Under this amendment Ausgrid will be required to employ 25 apprentices each year; Endeavour Energy will be required to employ 20 apprentices each year; and TransGrid will be required to employ five apprentices each year. It is important that when taking on new apprentices work is not taken away from the existing workforce because it might undermine the job security of existing workers.

It is also important to ensure that the businesses have the funding under the Australian Energy Regulator [AER] determination so they can afford to employ new apprentices. That is why this amendment makes it clear that the guaranteed apprentice intake commences when businesses are within 10 per cent of the minimum employment levels referred to in amendment No. 6 and that they have funding under the AER's determination. I am pleased that that opportunity for future apprentices is included in this amendment. Amendment No. 19 refers to cadets, trainees and graduate engineers. Unions NSW has raised with me the importance of existing cadets, trainees and graduate engineers. This amendment makes it clear that those employees will receive all the benefits of the employment guarantees that I am moving. [*Extension of time agreed to.*]

Amendment No. 20 deals with fixed-term employees. This amendment will ensure that fixed-term employees receive all of the protections that were established under the new schedule 4. It also means that their existing fixed term contracts will transfer across to the new lessee on the same terms and conditions that they currently have. Amendment No. 21 refers to contract employees. This amendment will ensure that contract employees receive all of the protections that are established under this schedule. It means also that their existing contracts will transfer across to the new lessee on the same terms and conditions that they currently have.

Amendment No. 22 deals with machinery provisions. These amendments are required so that the Independent Pricing and Regulatory Tribunal [IPART] can take legal proceedings against a network operator to enforce its obligations, such as the guaranteed minimum headcount. It also ensures that there are no loopholes in the guaranteed minimum headcount by defining an employee as a person who "carries out work solely or primarily in connection with the business of the new network operator". It will prevent any new lessee from counting other employees towards that requirement. I am pleased to move those amendments and seek the support of all members so we can move forward with what I believe is an excellent set of amendments on behalf of the workers in the electricity industry in New South Wales.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [9.42 p.m.]: I indicate that the Government supports amendments Nos 4 to 22 moved in globo by Reverend the Hon. Fred Nile. We acknowledge the employment guarantee period, salary, minimum

number of employees, voluntary redundancies, forced redundancies, leave entitlements, recognition of service, enforcement of obligations, existing locations, relocation policies, enterprise agreements, superannuation, disputes, existing apprentices, future apprentices, cadets, trainees and graduate engineers, fixed term employees, contract employees, and machinery provisions. We congratulate Reverend the Hon. Fred Nile on his amendments. The Government agrees with everything that is contained in those amendments.

The Hon. ADAM SEARLE (Leader of the Opposition) [9.44 p.m.]: That contribution by the Leader of the Government must have hurt. Behind the scenes the Government has fought tooth and nail against those protections being included in this legislation. Although this is not the version of protections that the Opposition had proposed, they represent a significant improvement to the legislation. The amendments have a number of features that are noteworthy, not the least of which is the curiosity that the Independent Pricing and Regulatory Tribunal [IPART] will be turned into an industrial tribunal. The Opposition supports the existing location provisions in amendments Nos 12 and 13. We hope they are not interpreted in a narrow way and relate only to administrative officers. We hope that the term "depot" is understood in the context in which the mover intends it so that the blue collar workers, the linesmen and the tradespeople that the amendments are designed to protect receive the benefits of those protections.

The Opposition notes the efforts to secure the entitlements of working people, such as leave entitlements. It may not cover all of the entitlements to all forms of leave that exist under the industrial instruments, but it secures annual leave, extended leave, long service leave, and sick leave accrued or accruing. It may not cover family leave and other leave, but in the spirit of cooperation we must attend to the implementation of the benefits to ensure that existing and future employers take a broad view of those entitlements. All of the amendments rest on the existing benefits that people in the electricity industry have accrued or are accruing under the current industrial instruments. That is an important bedrock on which all of these matters rest.

The Hon. Dr Peter Phelps: A feather bedrock.

The Hon. ADAM SEARLE: The fact is that each of those industrial instruments has expired; they are outside their nominal term. They remain in place only so long as the employer does not seek to terminate them. I ask the Minister, on behalf of the Government, to give a commitment that the State-owned corporations will not seek or move to terminate those agreements. I note that they remain in place and that employers and employees continue to negotiate new industrial instruments within the framework of the Fair Work Act. I ask the Minister to give that guarantee so that everybody can have the collective sense of security that those significant amendments are designed to implement.

The Hon. ROBERT BROWN [9.47 p.m.]: I speak in support of the work accomplished by Reverend the Hon. Fred Nile. The Shooters and Fishers Party supports all of the amendments. I hope members in this Chamber understand that my colleague the Hon. Robert Borsak and I played a minor part in this legislation but we sought to assist in negotiations where possible. I indicate our appreciation of the work conducted by Graeme Kelly from the United Services Union and Paul Lister and Steve Butler from the Electrical Trades Union. I acknowledge the unintended interjection of the Government Whip who used the words "feather bedrock". One must understand that when one looks at the spread of employees that are covered by these public entities and soon-to-be private entities, they are not all linesmen earning \$120,000 a year. They include truck drivers, trades assistants, cleaners and clerical workers. They are not feather-bedded. Some of them are in the lower echelons of the strata of their earnings and they deserve to be protected, not insulted. We support the amendments.

The Hon. Dr Peter Phelps: Eight hours pay for one hour's work.

The CHAIR (The Hon. Trevor Khan): Order! I remind members that there are only a few more amendments to complete and that interjections are disorderly.

Dr JOHN KAYE [9.49 p.m.]: As far as I can see these amendments are no worse for the employees of the transacted enterprises than the existing bills. There are some advances as there is an employment protection period. This is the best deal on offer. The Greens have tried in our amendments to achieve better legislation but we have failed in that attempt. The House has not agreed to our amendments, so we will support these amendments. We acknowledge the role of the union movement in attempting to achieve an outcome for their members. I place on record one of my grave concerns about the process we have been through. This process is about de-unionising the workforce. It is about smashing the unions, whatever way it is dressed up. Privatisation has always been primarily about destroying the union movement and unions. I have great faith in the unions involved in this industry—

The Hon. Duncan Gay: This is the point of getting it in under the Labor Party.

The Hon. Dr Peter Phelps: That's why Bob Hawke did it for Qantas.

Dr JOHN KAYE: Mr Chair, I seek your intervention. You made a ruling that it was disorderly to attempt to stop a member from speaking by continuous interjection.

The CHAIR (The Hon. Trevor Khan): I must apologise. I was seeking advice from the Clerk and could hear a stream of noise. I make the observation to the Government Whip that if he interjects again he will be called to order.

Dr JOHN KAYE: I have faith that the unions involved will withstand this and flourish because they have a great understanding of their membership and connection to their membership, even though it will be diminished by this process. Reverend the Hon. Fred Nile gave us a lot of information in moving these amendments and I seek some clarification about the employment guarantee period. I understand the guarantee applies to the minimum number of employees. I believe it applies to voluntary and forced redundancies, but it is not clear whether it applies to leave entitlement, recognition of service, enforcement of obligations, existing locations and relocation policies, enterprise agreements and future apprentices, cadets and trainees. I ask that either the member moving the amendments or the Government gives us that information again. I note that in his introduction of amendment No. 12 Reverend the Hon. Fred Nile spoke about existing locations. I think he used the words—

The Hon. Duncan Gay: He used the words you are asking for when he spoke.

Dr JOHN KAYE: Which words? You do not know what I am asking for because I have not asked it yet. Unless you have a degree of prescience, which I have never seen you display—

The CHAIR (The Hon. Trevor Khan): Order!

Dr JOHN KAYE: I think that when the member introduced amendment No. 12 he spoke about depots and administrative offices. I raise this because the words used were "maintain an administrative office, depot or other administrative centre". There are brackets on either side of the word "depot" and this and the word "other" raise a concern that this amendment might not cover depots that do not have any administrative function. I recently visited a work depot in Queanbeyan where there is no administrative office. I think the member's words were clear, but I would like clarification that the existing locations protection would include protection for a depot without any administrative function—that is to say, a depot that is purely a works depot where people distribute and collect materials. It would be helpful if the member could make that clear.

I am disappointed that there are no transfer payments in these amendments. Even small transfer payments would have been one step towards ameliorating a small proportion of the concerns about privatisation. It is a shame that the Government was so insistent on not having transfer payments. I suspect there was a fair degree of obstinacy from the Government and—

The Hon. Adam Searle: We have to keep the financial side for the transaction payments.

Dr JOHN KAYE: I did not hear the interjection so I will not respond to it. I am greatly disappointed that there could not have been at least some transfer payments to recognise the transition that this workforce will go through—at least, those who survive the Australian Energy Regulator process. The workforce has already gone through a number of transitions. This will be a qualitative transition in that the nature of their employment will change without compensation although with some protections. I acknowledge those protections and hope that they are what they appear to be on paper. I hope they provide those additional protections.

Reverend the Hon. FRED NILE [9.55 p.m.]: To answer the member's question, as usual the member is jumping at shadows. I never used the word "administrative".

Dr John Kaye: But the amendment does.

Reverend the Hon. FRED NILE: No, it does not. I said all the existing depots and offices must be maintained. I thank all members for their support for these amendments. I thank especially my colleague the

Hon. Paul Green, who worked very closely with me on these amendments. I also thank the Hon. Robert Brown and the Hon. Robert Borsak. We had many discussions and meetings with union representatives. I met with Mark Lennon, the Secretary of Unions NSW. I thank him for his positive attitude in discussing these amendments and for his work in tabulating into a document all the union concerns. I used that document as a basis for my amendments. I also thank the Premier, the Hon. Mike Baird, for his cooperation and goodwill in this process. I discussed with the Government a plan to have the bills put through the lower House and then the upper House, after which I would move amendments dealing with worker protections. That is the formula that was planned and that has been carried out.

The Hon. Adam Searle: Planned all along; is that what you are saying?

Reverend the Hon. FRED NILE: Yes, it was planned. Some members are acting as if we had surprised the Government with these amendments. The plan was for me to move these amendments in the upper House after we had had time to discuss with the union leadership what amendments they wanted to the legislation.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [9.57 p.m.]: Dr John Kaye asked about entitlements. Reverend the Hon. Fred Nile indicated that amendment No. 9 ensures that all leave entitlements, including annual leave, sick leave and long service leave, are preserved for all employees who transfer to the new lease.

The Hon. PAUL GREEN [9.58 p.m.]: As the other member of the Christian Democratic Party, I thank all stakeholders who have contributed to this legislation. I thank Reverend the Hon. Fred Nile, who has been here since day one of this debate some 20 years ago. He has been framed in many ways, some misleading and others a bit more accurate. While many would have used this opportunity to their own advantage and played ransom politics, Reverend the Hon. Fred Nile has again served this House and this State selflessly and served the people of New South Wales with honour. In my view, and that of many others, this wonderful politician will leave a great legacy to this State, particularly on this occasion, in the form of infrastructure for the people of New South Wales.

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

The Committee continued to sit.

The Hon. ADAM SEARLE (Leader of the Opposition) [10.00 p.m.]: I thank the Leader of the Government for his response, but he has not responded to my query—that is, whether he would give an undertaking on behalf of the Government not to seek to terminate the industrial instruments for the workers in this industry that have gone beyond their nominal expiry period pending the negotiation of new industrial instruments. I do not say that will happen but—

The Hon. Duncan Gay: So why ask?

The Hon. ADAM SEARLE: Because the efficacy of these amendments—

The Hon. Duncan Gay: The amendments cover it.

The Hon. ADAM SEARLE: The amendments do not cover it.

The Hon. Duncan Gay: They do.

The Hon. ADAM SEARLE: The amendments are only effective so long as those instruments or replacements are in place. I ask the Minister to give a clear commitment on behalf of the Government not to seek to terminate those agreements.

The Hon. Duncan Gay: I have answered that.

The Hon. ADAM SEARLE: With respect, the Minister has not.

The Hon. Duncan Gay: Yes, I have.

The Hon. ADAM SEARLE: That speaks volumes, thank you.

Question—That Christian Democratic Party amendments Nos 4 to 22 [C2015-008H] be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendments Nos 4 to 22 [C2015-008H] agreed to.

The Hon. ADAM SEARLE (Leader of the Opposition) [10.01 p.m.], by leave: I move Opposition amendments Nos 17 to 19 on sheet C2015-010H in globo:

No. 17 Step-in rights

Page 60, schedule 7.7 [19], clause 76B (1). Insert after line 16:

- (b) the Minister is satisfied that the network operator has contravened the terms of any lease or other arrangement for the purposes of an authorised transaction, or

No. 18 Step-in rights

Page 60, schedule 7.7 [19], clause 76B (1) (b), lines 19 and 20. Omit "and the contravention requires the issue of a Network Administration Order".

No. 19 Step-in rights

Page 60, schedule 7.7 [19], clause 76B (2), lines 22 and 23. Omit "is considered to require".

Insert instead "requires".

These amendments seek to deal with step-in rights in proposed part 6A on page 60 of the bill. At the present time the grounds for the issue of a Network Administration Order are set out in proposed clause 76B. The triggers in the proposed formulation are that a network operator licence can be cancelled if the Minister is satisfied that the operator has contravened a provision of the Act or regulations, or a condition of the operator's licence. However, there is an additional and cumulative requirement that the contravention requires the issue of a Network Administration Order, and the requirement trigger for that is set out in clause 76B (2).

Our amendments propose the insertion of an additional trigger for the Minister to issue a Network Administration Order—that is, the Minister is satisfied that the operator has contravened the terms of the lease or other arrangement for the purposes of an authorised transaction. There is also a consequential amendment that clarifies that the safety, security and reliability triggers otherwise provided in clause 76B (2) remain. It would be a curiosity if a breach of the Act or the regulations is a trigger but that a breach of the lease itself is not. We do not know what is going to be in the lease, what the terms and conditions will be, but it would seem to be a strange thing to omit from this important safeguard the trigger of breaching the lease.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [10.04 p.m.]: The Government opposes these amendments. We have been careful to distinguish the Government's differing roles—for example, its role as lessor under the leases, its role in holding the retained interest and the Electricity Retained Interests Corporations Bill 2015, and its role as State regulator, including through the Independent Pricing and Regulatory Tribunal [IPART]. The Government opposes Opposition amendment No. 17 because it mixes up the proposed roles of lessor under the lease and IPART and the Minister as regulator under the Electricity Supply Act 1995. The Government opposes Opposition amendment No. 18 because it will create uncertainty as to step-in rights; the existing approach is appropriate. The Government opposes Opposition No. 19 because the current provision is sufficient.

Reverend the Hon. FRED NILE [10.05 p.m.]: The Christian Democratic Party takes the same position as the Government. I take this opportunity to thank Treasurer Berejiklian for her assistance in processing this legislation. I did not notice her seated in the gallery earlier.

Question—That Opposition amendments Nos 17 to 19 [C2015-010H] be agreed to—put and resolved in the negative.

Opposition amendments Nos 17 to 19 [C2015-010H] negatived.

The Hon. ADAM SEARLE (Leader of the Opposition) [10.06 p.m.]: I move Opposition amendment No. 20 on sheet C2015-010H:

No. 20 Public access to Government information

Page 75, schedule 7.14, lines 35–44. Omit all words on those lines. Insert instead:

Section 4 Interpretation

Insert after paragraph (g) of the definition of *agency* in section 4 (1):

- (h) an authorised network operator under the *Electricity Network Assets (Authorised Transactions) Act 2015*.

This amendment seeks to amend page 75 of the bill. At present clause 7.14, the change to the Government Information (Public Access) Act [GIPA], seeks to create a conclusive presumption that there is an overriding public interest against the disclosure of the documents prepared for the purposes of or in connection with an authorised transaction under the Act. These matters should not remain secret in perpetuity. We are dealing with monopoly businesses, businesses that are currently undertaken by public enterprises, and there is no good reason as to why all of these matters should remain secret. There is no true commercial-in-confidence because these are monopoly businesses; there are no competitors. There is a public interest in these matters being potentially disclosable under the Act, as long as they meet the GIPA tests.

The Government Information (Public Access) Act provides for public access, but there are safeguards and exclusions that have been tried and tested in tribunals and courts. There is no good reason as to why this information should be put beyond the reach of that legislation. Further, when one has essentially got the privatisation of a public enterprise and private bodies are operating those operations pursuant to a lease—I note that the Government has maintained at all times that it will retain the ownership of those bodies—then there is no good reason as to why these new operators, insofar as they are operating what otherwise would be a public business, should not themselves be subject to the GIPA legislation. The Opposition contends that there are good public policy reasons for this amendment and we urge the Committee to embrace them.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) [10.08 p.m.]: The Government opposes Opposition amendment No. 20. The private network operator disclosures will be made in line with the guidelines.

Question—That Opposition amendment No. 20 [C2015-010H] be agreed to—put and resolved in the negative.

Opposition amendment No. 20 [C2015-010H] negatived.

Title agreed to.

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

Bill as amended agreed to.

The CHAIR (The Hon. Trevor Khan): Order! As there are no amendments to the Electricity Retained Interest Corporations Bill 2015 and if there is no objection, the Committee will deal with the bill as a whole.

Title agreed to.

Question—That this bill as read be agreed to—put and resolved in the affirmative.

Bill as read agreed to.

The CHAIR (The Hon. Trevor Khan): Order! I thank members for the courtesy they have shown throughout this consideration.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) [10.11 p.m.]: I also thank members for their good spirits and their help during the consideration of the bills. We do not need a plan B if we have a great plan A.

Electricity Network Assets (Authorised Transactions) Bill 2015 reported from Committee with amendments, and cognate bill reported without amendment.

Adoption of Report

Motion by the Hon. Duncan Gay agreed to:

That the report be adopted.

Report adopted.

Third Reading

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) [10.12 p.m.]: I move:

That these bills be now read a third time.

The Hon. ADAM SEARLE (Leader of the Opposition) [10.13 p.m.]: The Opposition will vote against the third reading of the Electricity Network Assets (Authorised Transactions) Bill 2015 and the cognate Electricity Retained Interest Corporations Bill 2015 because the opportunity taken to make good on the Government's commitments to strenuous consumer protection and the full range of worker protections promised in the select committee report were not incorporated in the legislation. The Opposition thinks this is a significant missed opportunity to act in the wider public interest, notwithstanding our other objections to the legislation.

Dr JOHN KAYE [10.13 p.m.]: The Greens will vote against the Electricity Network Assets (Authorised Transactions) Bill 2015 and the cognate Electricity Retained Interest Corporations Bill 2015 because they remain terribly bad pieces of legislation. They are bad for the economy, bad for the budget, bad for the environment, bad for employment and bad for households. Minor improvements were made to the legislation through the amendments moved by Reverend the Hon. Fred Nile, but they were only minor improvements. They remain bills that will bring great shame on this Parliament and great shame on this Government for decades to come.

The Hon. ROBERT BROWN [10.14 p.m.]: The Shooters and Fishers Party will also vote against the third reading of the Electricity Network Assets (Authorised Transactions) Bill 2015 and the cognate Electricity Retained Interest Corporations Bill 2015. We were happy to support Reverend the Hon. Fred Nile and the amendments he made to the principal bill, which have made it better. We can count, so we know that the bills will pass even if we vote against them. I hope for the sake of the people of New South Wales that the gamble is a good one. We went to an election opposing the sale of electricity network assets, and that is where we stand.

Question put.

The House divided.

Ayes, 19

Mr Ajaka	Mr Gay	Reverend Nile
Mr Amato	Mr Green	Mr Pearce
Mr Blair	Mr Khan	Mrs Taylor
Mr Clarke	Mr MacDonald	
Mr Colless	Mrs Maclaren-Jones	<i>Tellers,</i>
Ms Cusack	Mr Mallard	Mr Farlow
Mr Gallacher	Mrs Mitchell	Mr Franklin

Noes, 17

Ms Barham	Mrs Houssos	Mr Shoebridge
Mr Borsak	Dr Kaye	Mr Veitch
Mr Brown	Mr Primrose	Ms Voltz
Mr Buckingham	Mr Searle	<i>Tellers,</i>
Ms Cotsis	Mr Secord	Mr Donnelly
Dr Faruqi	Ms Sharpe	Mr Mookhey

Pairs

Mr Mason-Cox
Dr Phelps

Mr Moselmane
Mr Wong

Question resolved in the affirmative.

Bills read a third time and returned to the Legislative Assembly with a message requesting its concurrence in the amendments.

FAIR TRADING LEGISLATION (REPEAL AND AMENDMENT) BILL 2015

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay, on behalf of the Hon. John Ajaka.

Motion by the Hon. Duncan Gay, on behalf of the Hon. John Ajaka, agreed to:

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

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

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [10.25 p.m.]: I move:

That this House do now adjourn.

FIT FOR THE FUTURE

The Hon. PETER PRIMROSE [10.25 p.m.]: One of the great muddles that the Baird Government is rolling out at the moment is its so-called Fit for the Future policy—dubbed by many in the local government sector as "Fitted up for the future". The policy is market by one word: confusion. No-one questions the value of finding better ways to improve how local government works, and striving for more efficient and effective approaches to deliver local infrastructure and services. But where the whole thing has fallen flat is in the bumbling implementation of the Minister for Local Government. He keeps repeating the mantra that Fit for the Future:

... will mean better services, more infrastructure and lower rates.

But he never explains how or why. He threatens forced amalgamations but never provides the empirical evidence to show—contrary to the academic research—that bigger is better. Everyone is confused about the criteria, the process and the structures that the policy is aiming to implement. Councils have only been given until 30 June to submit extremely detailed and costly reports justifying why they should be considered Fit for the Future, according to criteria that the Independent Pricing and Regulatory Tribunal [IPART] is yet to spell out beyond a draft. In a submission to IPART, dated 22 May 2015, on its draft assessment methodology, TCorp states:

By promoting a "Must meet" methodology, IPART's methodology paper can be viewed as not consistent with the "guidance material" provided to councils and their representatives.

The submission goes on to state:

Table 3.3 (page 30) states that all councils (except rural councils) "Must" meet the benchmark of break-even (average over three years) by 2019/20 and rural councils should "plan" to meet it within 10 years (i.e. by 2024/25).

... the current requirements that most councils "Must" meet the breakeven benchmark by 2019/20 is not consistent with what has been previously advised to councils.

This issue will most adversely impact on regional councils and we believe that consideration should be given to extending the time period for compliance with the benchmark.

The submission continues:

Debt Service Ratio (DSR)

IPART's methodology promotes debt as one of the most important sustainability factors, in that compliance with the debt benchmark is one of the four "Must" meet benchmarks.

Whilst it is generally recognised that the council sector is under-gear'd, having DSR as a "Must meet" is in our view an aspirational goal, not a core driver of a council being sustainable.

... some of the councils that TCorp assessed as amongst the strongest financially sustainable councils in NSW (for example, City of Sydney and Hills, have no existing or current need for debt, significant capital expenditure programs, and very low Infrastructure Backlogs). Under the IPART methodology these councils would not meet the DSR criteria.

... having debt or not having debt shouldn't, in TCorp's view, be one of the 4 key financial determinants of being Fit for the Future.

Building and Infrastructure Asset Renewal Ratio (BIARR)

It has been stated that all Councils have to meet or improve this ratio within 5 years however this statement lacks relativity.

This long and detailed submission is signed by Kevin Pugh, Head of Local Government Services. Similarly, in his submission of 24 May 2015 Professor Graham Sansom, who chaired the Independent Local Government Review Panel [ILGRP], expressed many concerns. I urge members to read through Professor Sansom's review. He says:

I am writing to clarify some aspects of the approach taken by the Independent Local Government Review Panel (ILGRP) in framing its final report.

... the Panel considered it essential that any structural reform be accompanied by further improvements to Integrated Planning and Reporting, financial and asset management, the revenue base (including "streamlining" rate-pegging), management skills, productivity, and both corporate and political/democratic governance.

... whilst inherent in the FFTF [Fit for the Future] criterion of "scale and capacity", the ILGRP's broader package has been somewhat overshadowed by FFTF's perceived focus on financial ratios and benchmarks.

Mr Baird created this mess and his Minister is making it worse. Local government and local communities deserve better.

ELECTRICITY PRIVATISATION

The Hon. PAUL GREEN [10.29 p.m.]: On behalf of the Christian Democratic Party I speak briefly about the infrastructure benefits of the leasing of our poles and wires. The proceeds from the poles and wires leases will enable the Government to unlock \$20 billion of capital to be reinvested in new infrastructure. Deloitte Access Economics examined the Rebuilding NSW plan and found that it will boost the economy by almost \$300 billion in just over 20 years. Rebuilding NSW will also generate more than 122,500 jobs by the year 2035-36.

In 2012 Infrastructure NSW identified an infrastructure backlog of \$31 billion. In response to that dilemma, Infrastructure NSW released its State Infrastructure Strategy and recommended projects such as the \$8.9 billion plan for urban public transport to connect people to jobs and improve the existing network. That includes \$7 billion for the Sydney Rapid Transit. It also includes \$2.4 billion for urban roads to address congestion and increased population growth, which includes \$1.1 billion for the WestConnex northern and southern extensions. In addition, it includes \$4.1 billion for regional transport to improve the regional freight network and meet the needs of a growing regional population. There is \$1 billion for water security including in high priority regional towns and \$1 billion for health to service an ageing population and adapt to new technologies. There is also \$1.5 billion to provide appropriate cultural, sporting and tourist facilities.

These amounts are broken down into their components. For example, the urban public transport sector amount is composed of \$7 billion for the Sydney Rapid Transit, \$1 billion for Sydney's Rail Future 2 Upgrades, \$600 million for the Parramatta Light Rail and \$300 million for a bus rapid transit system and bus priority infrastructure. The urban roads sector allocation is made up of \$1.1 billion for the WestConnex northern and southern extension and the Western Harbour Tunnel, \$400 million for smart motorways, \$300 million for the Gateway to the South Project and \$200 million for traffic management upgrades.

Other items include \$2 billion for the Regional Road Freight Corridor Program, \$1 billion for the Regional Growth Roads Program, \$500 million for the Fixing Country Roads project for The Nationals,

\$400 million for the Fixing Country Rail project and \$200 million for Bridges for the Bush. The list also includes \$1 billion for the Regional Water Security and Supply Fund, \$700 million for the Future Focused Schools program, \$300 million for the Regional Schools Renewal program, \$600 million for the Hospitals Growth Program, \$300 million for regional multipurpose facilities, \$100 million for the Care Co-location Program, \$600 million for culture and arts, \$600 million for sports stadia, \$300 million for the Regional Environment and Tourist Fund and \$100 million for corridor identification and reservation.

The Christian Democratic Party does not apologise for helping to make New South Wales number one and keeping it number one. We supported the leasing of the ports to help stimulate our economy. Our State's triple-A credit rating was vulnerable at the time and in danger of being downgraded to double-A, which would have created a massive interest bill of approximately \$3.75 billion for New South Wales. The Christian Democratic Party is again making a decision to stimulate our economy to enable it to provide infrastructure and long-term job security as well help local government to balance its limited available resources.

The Christian Democratic Party is known for many things, but for today, for the sake of the people of New South Wales, I hope that the projected financial infrastructure injection that leasing of the poles and wires will provide becomes a gift that keeps giving for generations to come for the people and communities of New South Wales. In that context I thank my colleague Reverend the Hon. Fred Nile, who has been an awesome leader. He was a crucial vote on granting land rights for Aboriginal people. He was a crucial vote when it came to reducing the use of tobacco in New South Wales. Tonight he leaves a legacy of infrastructure for New South Wales communities and their people.

RELIGIOUS EDUCATION AND SCHOOL ETHICS CLASSES

Dr JOHN KAYE [10.34 p.m.]: There are moments in New South Wales politics that make you feel as though you are an extra in the movie *Groundhog Day*. The ongoing war on the ethics alternative to scripture is a case in point. Following the March State election the New South Wales Government found itself at the mercy of the Christian Democratic Party [CDP]. This week it is the electricity privatisation bills that are causing the Premier, Mike Baird, and his advisers to wear out the carpet on the way to the CDP's level 11 office. The Primary Ethics freedom of information request revealed the Premier's office inexplicably exerted pressure on the New South Wales Department of Education and Communities to hide from parents the existence of the ethics alternative on the school enrolment form. The CDP is the parliamentary mouthpiece of the aggressively pushy conservative church groups, who have described special religious education [SRE] teachers in public schools as "Government-endorsed evangelists".

Ever since the New South Wales Liberals and Nationals swept to power in 2011 and the CDP has held or been part of the balance of power in the upper House, the future of ethics classes has been in doubt. Every time supporters of choice think the ethics debate is over, the Liberals and Nationals bow once again to pressure from the scripture providers. At the same time the CDP continues to provide support for every Baird Government initiative, including public assets sales, slashing workers compensation and capping public sector wages. Ethics class supporters have weathered more than one storm of the CDP's making, including an upper House inquiry in 2012 which recommended, and the New South Wales Government subsequently adopted, a two-step enrolment process whereby parents had to reject scripture before they would be informed of the existence of the ethics alternative.

The Greens warned at the time that the process would be unwieldy and would unfairly discriminate against ethics classes. Indeed, that proved to be so. In what was a victory for ethics class supporters, the enrolment form used for the 2015 school year allowed parents a genuine choice to opt in or opt out of special religious education, separate to nominating their religion. It also offered parents a choice of the ethics alternative. Some public schools reported substantial reductions in enrolments in SRE. This corresponds closely with the Victorian experience when parents were given comprehensive accessible information about their options. Therein lies the scripture providers' motivation for tearing up the enrolment form. The Primary Ethics documents exposed scripture providers and the Premier's office pushing a proposed new enrolment form that does not offer parents, who reveal a student's religion, the choice of opting out of SRE. It fails to inform parents that nominating a religion automatically places their child in the SRE class and it hides the existence of ethics education.

To date the Premier has not offered any explanation of why his office, in late 2014, pushed for the form to be updated by December 2014 instead of the Department of Education and Communities' original proposed timetable of April 2015. The best they have come up with is a denial that it has anything to do with electricity privatisation. The first hint that the 2015 enrolment form was unlikely to survive came when it went live in July

2014. No ministerial announcement was made and no media was informed. In yet another twist, late last year the department provided principals with a template letter that was to be sent to all parents whose child's "religious persuasion was not nominated on enrolment" or whose "nominated religious persuasion is not available as an SRE program at the school". The letter gives scripture providers a second bite at the cherry. The letter, that we now know was approved and signed off by the Premier's department, does not mention ethics classes. It was only a stop-gap measure for the church lobby. It was not enough for them, or for the Premier.

Public schools in New South Wales have been thrown into chaos by nearly five years worth of chopping and changing by the department and the Government in relation to ethics and scripture implementation. Thanks to Primary Ethics' freedom of information requests, we now know that the conflict goes right to the top of the tree in New South Wales politics. The Premier's ethics intervention also leads one to wonder what communication his office had with the education department over the recent SRE book banning and unbanning controversy, after it was revealed that one of the banned and then unbanned book's authors John Dickson is a close personal friend of Mike Baird. There are only two things we know for sure in this entire saga: the current open, transparent and informative school enrolment form is in deep trouble, and Mike Baird's electricity privatisation legislation has become law.

NSW/ACT REGIONAL ACHIEVEMENT AND COMMUNITY AWARDS

The Hon. RICK COLLESS (Parliamentary Secretary) [10.39 p.m.]: I advise the House about an important government sponsored program that I had the privilege of launching last Friday on behalf of the Minister for Primary Industries, and Minister for Lands and Water, the Hon. Niall Blair, MLC. The annual NSW/ACT Regional Achievement and Community Awards are designed to encourage, acknowledge and pay tribute to volunteers, managers and community groups making a significant contribution to enhancing the social, economic, commercial or environmental prosperity of regional areas and communities in New South Wales and the Australian Capital Territory. There were two launch events, Thursday 28 May in Canberra and Friday 29 May in Wollongong, and it was the Wollongong launch that I participated in with well-known Prime 7 news presenter Natalie Forrest, the Master of Ceremonies. The launch was also attended by the Lord Mayor of Wollongong, Gordon Bradbury, and several of his councillors, the member for Cunningham, Sharon Bird, MP, and the member for Shellharbour, Anna Watson, MP. The awards are presented by Awards Australia, in association with major sponsors Prime 7 and the Commonwealth Bank.

There are a number of categories in these awards and they are: Crown Reserve Trust Corporate Manager's Award and the Crown Reserve; Trust Community Trust Manager's Award, both sponsored by the Department of Primary Industries; Community of the Year Award Population under 15,000, the Community of the Year Population over 15,000 Awards, and the Employer Excellence in Aged Care Award, with these three awards being sponsored by Prime Super; Community Service in Aged Care Award, sponsored by MOA Benchmarking; the Environment and Landcare Award, sponsored by Peabody Energy; the Agricultural Community Achiever Award, sponsored by CRT; and finally, the Events and Tourism Award, sponsored by Dobija Print World.

Representatives from the sponsors for each award category attended the launch and introduced the importance of their awards. Nominations for all categories close on Thursday 13 August, with judging taking place on Thursday 24 September, with each award judged by a panel chosen by Awards Australia with input from sponsors. The panel selects a final three in each category and an overall winner. All finalists will be invited to the awards presentation event which will be held at the Dubbo RSL Function Centre, Saturday 14 November. Category winners will receive a trophy and either a \$2,500 cash prize from the Commonwealth Bank and a free financial health check, or a television air time package on the Prime 7 Network. These awards have been going strong for over a decade and the New South Wales Government has been a sponsor every year in one category or another. This year the Government is again sponsor of the Crown Reserve Trust Awards. There are two awards in this category, recognising the reserve trust boards that manage publicly owned land such as local parks and showgrounds.

More than 8,000 Crown reserves in New South Wales are managed by local councils, community volunteers and local organisations. The Crown Reserve Trust Awards honour those who manage our priceless community assets such as parks, camping grounds and sports fields. Reserve trustees, whether local council employees or volunteers, are trusted by the Government and the community to maintain and enhance our community assets. Reserve trusts allow communities, members of the public and councils to care for and manage important land, environmental and cultural sites or community facilities. Trust membership is an interesting and valuable voluntary role for many. The reward is contributing to the local community and working to manage and preserve significant public assets.

This award is one means the Government has of saying a great big thank you to all involved in managing our public reserves, those volunteer trustees who do it without payment, and usually are the backbone of many of our regional communities. Across all regional areas—regional cities like Tamworth, Dubbo and Wagga, or smaller communities like Canyonleigh, Tibooburra, Nerriga or Emmaville—these communities have showgrounds, racecourses, halls, parks, reserves and sporting fields which in most cases are managed by a reserve trust with either volunteers or local government officers in charge of them.

The Government supports these efforts with a funding program called the Public Reserves Management Fund. This fund provides grants and loans amounting to millions each year to support our vital Crown land assets that I described a few moments ago. These awards are a way of thanking local communities for the invaluable contribution they make every year to the management of these assets. I thank members of the Wollongong community for coming out last Friday morning to support the NSW/ACT Regional Achievement and Community Awards for 2015, and I am sure all members of this House look forward to hearing about some fantastic individuals and organisations nominated for their contribution to the community this year.

CAPITAL PUNISHMENT

The Hon. DANIEL MOOKHEY [10.44 p.m.]: I draw to the attention of members the plight of Mr Glenn Ford and Mr Marty Stroud. Glenn Ford is a 65-year-old resident of the State of Louisiana in the United States. For the past 30 years his residence has been a Louisiana prison. He was convicted of murder, and his sentence was death. Mr Stroud was the prosecutor in his trial 30 years ago—the person responsible for persuading a jury of Mr Ford's peers of Mr Ford's guilt. Last year Mr Ford was released from death row. His release followed his win on the right to introduce new evidence—evidence so compelling that he won his motion of wrongful conviction. Mr Ford is entitled to feel aggrieved. That is not exceptional; the exceptional response to this case was not from Mr Ford or from Mr Ford's family. The exceptional response came from Mr Stroud, the prosecutor. In a wrenching letter to the *Shreveport Times*, Mr Stroud said:

Part of my duty was to disclose promptly any exculpatory evidence relating to trial and penalty issues of which I was made aware. My fault was that I was too passive. I did not consider the rumors about the involvement of parties other than Mr. Ford to be credible, especially since the three others who were indicted for the crime were ultimately released for lack of sufficient evidence to proceed to the trial.

Had I been more inquisitive, perhaps the evidence would have come to light years ago. But I was not, and my inaction contributed to the miscarriage of justice in this matter. Based on what we had, I was confident that the right man was being prosecuted and I was not going to commit resources to investigate what I considered to be bogus claims that we had the wrong man.

Glenn Ford was an innocent man. He was released from the hell hole he had endured for the last three decades.

Mr Stroud goes on:

The clear reality is that the death penalty is an anathema to any society that purports to call itself civilized. It is an abomination that continues to scar the fibers of this society and it will continue to do so until this barbaric penalty is outlawed. Until then, we will live in a land that condones state assisted revenge and that is not justice in any form or fashion.

I draw the attention of the House to this extraordinary letter because it eloquently states what this State, and all the parties represented here, already understand: No system of law—no matter its sophistication, learning, personnel or history—is ever able to adequately compensate for human fallibility. Therefore, the price of human fallibility, under any circumstance, can never be a human's life. The struggle against capital punishment is ongoing. This week a significant stride was made. Stories like that of Messrs Ford and Stroud, as well as the energy and organisation of thousands of activists, caused Nebraska to become the latest State to follow New South Wales and outlaw the death penalty. Nebraska is the nineteenth US State to do so. Sadly, there are many other US States and many nations that still permit capital punishment. According to Amnesty International 21 countries still permit capital punishment.

Recently, the senselessness of the death penalty was felt by many Australians when two of our own citizens were rewarded for their rehabilitation with death. In the wake of that tragedy many called for it to become a spur for a renewed Australian campaign to abolish capital punishment. In the *Sydney Morning Herald*, Mr Michael Fullilove, the head of the Lowy Institute, said:

The better position from which to petition foreign Governments on behalf of our nationals is one of active, not declaratory, opposition to the death penalty regardless of the nationality of the condemned. Such a stance would enable the Government to deal with the issue positively and continually, rather than negatively and sporadically. It would increase the momentum towards universal prohibition and shield us from claims of hypocrisy.

Australia has an activist diplomatic history and some experience in building regional constituencies for particular initiatives. A new push against capital punishment would be hard, grinding work, but it would be in the best traditions of principled Australian diplomacy.

Mr Fullilove is correct. This type of push would be within the best traditions of Australian democracy. It would be in keeping with the character of the State of New South Wales. And should it be launched it might be a salve to people like Glenn Ford, Marty Stroud and every person who has been affected by the grim business of determining whether a person's life will continue.

NEW SOUTH WALES YOUNG LIBERAL FLYING SQUAD

The Hon. NATASHA MACLAREN-JONES [10.48 p.m.]: This evening I commend the remarkable work of the New South Wales Young Liberal Flying Squad, the campaign arm of the New South Wales Young Liberals Movement. They are a vital part of the Liberal Party's campaign unit and a primary source of our volunteers. During the 2015 State election the New South Wales Young Liberals played a critical role across the State. I believe that people make a country strong and prosperous through hard work and determination. It requires passion and commitment, and those are the qualities shown by these young Australians. I have had the opportunity to work closely with this impressive group of young people over a number of years and I am proud to be associated with them.

These volunteers are committed to delivering real change by developing future leaders. I admire their commitment to defend the fundamental rights and freedoms upon which liberalism is based: to worship, to choose, to think, to be ambitious, to be independent, to be industrious, to acquire skills and to seek reward for effort—ideals that I strongly believe in. Each election these exceptional young Australians provide support and assistance wherever needed to ensure that New South Wales—and Australia—is a better place. Young Liberal Flying Squad members dedicate hundreds of hours travelling thousands of kilometres to undertake critical campaign activities across a wide range of metropolitan, regional and country electorates. They are the people I call the young campaign heroes of the Liberal Party.

Members of the flying squad are under 30 years old and most of them are students, but many of them work full time and take annual leave from their jobs to take part in the campaign. I take note also that some Young Liberals choose to join one campaign, taking full-time leave from their jobs so they can specifically take on a role within a campaign. I pay tribute to the New South Wales Young Liberal campaign officers, Joshua Crawford and Dean Shachar, who did an outstanding job as the 2015 flying squad coordinators. Having been a flying squad coordinator in the mid-2000s, I can attest that one of the hardest jobs is being a Young Liberal Flying Squad coordinator.

Coordinators are not only responsible for managing hundreds of young people and allocating them across the State as directed but also for coordinating telephone calls, transport and accommodation and, most importantly, ensuring the safety of all volunteers, particularly on election night, as they man booths from 2 o'clock or 3 o'clock in the afternoon right through until 6 o'clock or 7 o'clock in the morning. After that they go on to campaign all day. However, Dean and Josh could not have done it alone. During the 2015 State election it was fantastic to join them and other flying squad members and hear the appreciation of colleagues and candidates about the fantastic effort put in by all our young volunteers.

I note the outstanding efforts of a number of Young Liberals including Dominick Bondar, Madeleine Bower, Alex Briggs, Keegan Bringolf, Alex Butterworth, Daniel Cacaj, Brendan Christie, Elizabeth Christie, Andrew Clark, Daniel Collard, Aaron Colley, Scott Cowley, William Dawes, Sam Diamant, Alex Dore, Hannah Eves, Justin Fazzolari, Caleb Ferry, Alex Fitton, Philippa Fredrickson, Georgia Gajardo, Lyndon Gannon, Nick Gerovasilis, Taylor Gramoski, Matthew Hana, Jordan Heckendorf, Nicholas Hills, Tim Jackson, Manning Jeffrey, Tegan Keizer, Damian Kelly, Todd Kirby, Madison Lawrence, Tobias Lehmann, Jordan Lew, Timothy Mantiri, Nick Marston, Imraan Matthews, Samuel McCarthy and Ingrid McKellar.

I also acknowledge the efforts of the following Young Liberals: Matthew Meharg, Eliot Metherell, Alex Mishalow, Charise Mitchell, Jack Morgan, Adrian Morris, Jack Morrison, Matthew Murray, Jessie Nguyen, Dimitry Palmer, Nomiky Panayiotakis, Trent Richmond, Moe Rumman, Harry Singh, Elmarie Smit, Lachlan Smith, Vincent So, Jonathon Sterling, Natarsha Terreiro, Faye Wang, Rachael Wheldall and Melanie Wilson. There are many members in this place and the other place whose winning of seats in this Parliament are a direct result of the dedication of these young campaigners and I say thank you and well done to them for all their work.

MEMBER FOR WOLLONGONG

The Hon. Dr PETER PHELPS [10.52 p.m.]: I recently came across an article written by Mr Andrew Pearson in the *Illawarra Mercury* that states:

Ms Hay told the Mercury at the weekend—

The Hon. Walt Secord: Point of order—

The Hon. Dr PETER PHELPS: Stop the clock!

The Hon. Walt Secord: We do not stop the clock for points of order during debate.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! This could be a frivolous interjection.

The Hon. Walt Secord: The standing orders provide that members must not cast aspersions on nor impugn another member except by way of substantive motion. I refer to a ruling by President Burgmann in 2001—

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! There is no point of order because no aspersions have been cast. The Hon. Dr Peter Phelps has only just begun his contribution.

The Hon. Dr PETER PHELPS: Mr Pearson wrote:

Ms Hay told the Mercury at the weekend the documents had been tabled and she would take no further part in Dr Phelps' "smear campaign".

The Hon. Walt Secord: Point of order: The member is clearly attacking another member.

The Hon. Natasha Maclaren-Jones: What is your point of order?

The Hon. Walt Secord: My point of order relates to members casting aspersions on or impugning other members. The Hon. Dr Peter Phelps has done so three times.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! There is no point of order. The member is quoting from an article and he has not cast any aspersions. What he is reading is a matter of public record.

The Hon. Dr PETER PHELPS: I will repeat what Mr Pearson wrote in the article:

Ms Hay told the Mercury at the weekend the documents had been tabled...

Earlier this week, I checked with the Clerk of the lower House and I was told that no documents had been tabled by Ms Hay.

The Hon. Walt Secord: That is untrue. You should read the rest of the email sent to you today.

The Hon. Dr PETER PHELPS: Mr Pearson—

[Time for debate expired.]

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

Motion agreed to.

The House adjourned at 10.55 p.m. until Thursday 4 June at 9.30 a.m.
