LEGISLATIVE COUNCIL

Thursday 6 December 2001

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

The President offered the Prayers.

LANDCOM CORPORATION BILL

EVIDENCE LEGISLATION AMENDMENT BILL

COURTS LEGISLATION FURTHER AMENDMENT BILL

CHILDREN (CRIMINAL PROCEEDINGS) AMENDMENT (ADULT DETAINEES) BILL

CRIMINAL PROCEDURE AMENDMENT (JUSTICES AND LOCAL COURTS) BILL

CRIMES (LOCAL COURTS APPEAL AND REVIEW) BILL

JUSTICES LEGISLATION REPEAL AND AMENDMENT BILL

Bills received.

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

Motion by the Hon. Michael Egan agreed to:

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

Bills read a first time.

PARLIAMENTARY ETHICS ADVISER

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

Madam PRESIDENT

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

That:

(1) This House directs the Speaker to join with the President to make arrangements for the appointment of Mr Ian Dickson as Parliamentary Ethics Adviser, on a part-time basis, on such terms and conditions as may be agreed from the period beginning 1 December 2001,

(2) The function of the Parliamentary Ethics Adviser shall be to advise any member of Parliament, when asked to do so by that member, on ethical issues concerning the exercise of his or her role as a member of Parliament (including the use of entitlements and potential conflicts of interest),

(3) The Parliamentary Ethics Adviser is to be guided in giving this advice by any Code of Conduct or other guidelines adopted by the House (whether pursuant to the Independent Commission Against Corruption Act or otherwise),

(4) The Parliamentary Ethics Adviser's role does not include the giving of legal advice,

(5) The Parliamentary Ethics Adviser shall be required to keep records of advice given and the factual information upon which it is based,

(6) The Parliamentary Ethics Adviser shall be under a duty to maintain the confidentiality of information provided to him in that role and the advice given, but that the Parliamentary Ethics Adviser may make advice public if the member who requested the advice gives permission for it to be made public,

(7) This House shall only call for the production of records of the Parliamentary Ethics Adviser if the member to which the records relate has sought to rely on the advice of the Parliamentary Ethics Adviser or has given permission for the records to be produced to the House,

(8) The Parliamentary Ethics Adviser is to meet with the Standing Ethics Committee of each House annually,

(9) The Parliamentary Ethics Adviser shall be required to report to the Parliament prior to the end of his annual term on the number of ethical matters raised with him, the number of members who sought his advice, the amount of time spent in the course of his duties and the number of times advice was given, and

(10) The Parliamentary Ethics Adviser may report to the Parliament from time to time on any problems arising from the determinations of the Parliamentary Remuneration Tribunal that have given rise to requests for ethics advice and proposals to address these problems.

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

Legislative Assembly
5 December 2001

J. H. MURRAY
Speaker

STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS

Report

Motion by Reverend the Hon. Fred Nile agreed to:

1. That the House adopt recommendations Nos 1 to 4 of report No. 13 of the Standing Committee on Parliamentary Privilege and Ethics entitled "Possible intimidation of witnesses before General Purpose Standing Committee No. 3 and unauthorised disclosure of committee evidence."

2. That the President write to the Commissioner of Police informing him of the terms of Recommendations Nos 2 and 3, namely:

Recommendation 2
That Police Management be reminded that intimidation or coercion of police officers who give evidence before parliamentary committees, whether intended or not, in relation to their evidence constitutes a contempt of Parliament.

Recommendation 3
That the Police Commissioner be advised of the need to develop a clear set of procedures for management when dealing with officers under their command who appear as witnesses before parliamentary inquiries. These procedures should be published and widely circulated to avoid future problems between the Police Service and the Parliament.

TABLING OF PAPERS

The Hon. Carmel Tebbutt tabled the following papers:

1. Annual Reports (Departments) Act 1985—Report of NSW Health for year ended 30 June 2001.

2. Annual Reports (Statutory Bodies) Act 1984—Reports for year ended 30 June 2001:

Health Care Complaints Commission
Health Foundation
Institute of Psychiatry
NSW Cancer Council.

Ordered to be printed.

PETITIONS

Circus Animals

Petition praying for opposition to the suffering of wild animals and their use in circuses, received from **the Hon. Richard Jones**.

Council Pounds Animal Protection

Petition praying that the House introduce legislation to ensure that high standards of care are provided for all animals held in council pounds, received from **the Hon. Richard Jones**.

Wildlife as Pets

Petition praying that the House rejects any proposal to legalise the keeping of native wildlife as pets, received from **the Hon. Richard Jones**.

BUSINESS OF THE HOUSE

Postponement

Business of the House Notice of Motion No. 1 postponed on motion by the Hon. John Jobling.

FISHERIES MANAGEMENT AMENDMENT BILL

In Committee

Clauses 1 to 4 agreed to.

Schedule 1

The Hon. IAN COHEN [11.12 a.m.]: I move Greens amendment No. 1:

No. 1 Pages 3 and 4, schedule 1 [4], lines 17-27 on page 3 and lines 1-10 on page 4. Omit all words on those lines. Insert instead:

[4] Section 20A

Insert after section 20:

20A Protected waters

(1) The regulations may declare specified waters to be waters in which all or a class of fishing is prohibited absolutely or conditionally.

(2) A person who takes fish from waters declared under subsection (1) in breach of a declaration is guilty of an offence.

Maximum penalty: In the case of a corporation, 2,000 penalty units or, in any other case, 1,000 penalty units or imprisonment for 6 months, or both.

(3) Nothing in this section limits the power of the Minister to make a fishing closure in relation to fishing.

New section 20 allows the Minister to declare that fish and waters be protected from commercial fishing. In the past there has been a history of targeting the commercial fishing industry, with the recreational fishing industry being shown favouritism. I have communicated with people from the commercial fishing industry who are concerned that this situation is continuing. I have said that there needs to be similar regulation assessment and monitoring with regard to the recreational fishing industry as pertains to the commercial fishing industry. It is not appropriate to remove commercial fishing from certain areas yet permit recreational fishing without supervision and regulation.

This amendment removes reference to commercial fishing and provides protection for waters from all fishing, including recreational fishing. The amendment ensures that legislation applies fairly to both commercial and recreational fishers, which is the most effective means of achieving a sustainable fishing industry across the board. The impact on certain fish stocks by recreational fishers has been underestimated. The commercial industry has made the justifiable claim that its industry is open and accountable in that we know its targets and catch, which are assessed right along the line. The same should apply to recreational fishers. Protection from both industries should be afforded equally to allow fish stocks to regenerate.

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [11.14 a.m.]: The Government opposes the amendment. The Government's proposed changes relate to increasing the penalties for serious black-marketing offences. This would apply when people are illegally extracting commercial quantities of fish using non-recreational gear. The amendment undermines the intent of the Government's proposal. The Government does not support fines on individuals of up to $110,000 for innocent recreational fishing offences. The existing penalty is adequate for this purpose. Such fines are only appropriate for very serious black-market style violations involving commercial quantities of fish and/or commercial fishing gear. I ask that this amendment be rejected.

The Hon. IAN COHEN [11.15 a.m.]: In many areas up and down the coastline there are "shamateur" fishers. I have seen them and I have actually been approached by some selling fish. Significant quantities of fish are taken on the black market by those pretending to be amateurs but no regulations seem to cover that practice. Is that practice adequately covered in the bill?

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [11.16 a.m.]: Fish receivers are registered to buy fish off commercial fishers for retail sale. What we are talking about is the black market, not fish receivers, who are registered and licensed and who have the appropriate storage facilities to buy from commercial fishers and sell retail to stores, restaurants and the like. This is part of the legislation that was introduced 1½ years ago. These "shamateurs" are illegal black-market fishers. They are not covered in this section of the legislation.

Amendment negatived.

The Hon. JENNIFER GARDINER [11.17 a.m.]: I move Opposition amendment No. 1:

No. 1 Page 5, schedule 1 [8], lines 21-29. Omit all the words on those lines.

Section 58 of the Act relates to public and industry consultation. Item [8] of schedule 1 to the bill will delete some of the public consultation provisions, which we would prefer to remain because we believe consultation is necessary before management plans are made for a fishery. Management plans are the nuts and bolts of how a fishery is to be governed. Although advice on overall fishery strategy has not been a problem, some of the more detailed workings on how the nuts and bolts of management plans will work need detailed consultation. The Government may be correct in its assertion that this may be cumbersome duplication, but stakeholders prefer to go through the more detailed process as they believe it is appropriate. An analogy could be drawn that the general strategy for reducing the road toll includes reduction of the road speed limit, but if the management plan to implement that strategy reduces the speed limit to a ridiculous five kilometres an hour, that would cause another problem. I believe it is better for the existing provision to remain, not that which is now suggested by the Government.

As the secretary of the New South Wales Fishermen's Co-operative Association has indicated to me, the proposed changes to this provision relating to management plans and strategies are such that the Minister can make decisions in isolation, without any consultation or input from the people and communities affected. This is not due process nor does it consider the many and varied needs of communities and local businesses. As a number of honourable members pointed out during the second reading debate, there is at least a perception of a problem with the fisheries management consultation process. Therefore, I urge honourable members to retain the current wording of the Fisheries Management Act by supporting Opposition amendment No. 1.

The Hon. IAN COHEN [11.20 a.m.]: The Greens support Opposition amendment No. 1 as moved by the Hon. Jennifer Gardiner. Whether it is real or illusory, there is certainly a feeling within the professional fishing industry that there is a lack of sufficient consultation and communication. I referred in my speech during the second reading debate to members of advisory bodies who do not believe they are being heard. This amendment allows for more comprehensive consultation, which is something for which the Greens have always argued.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.21 a.m.]: The Australian Democrats support Opposition amendment No. 1. As I said in my contribution to the second reading debate, we believe there is a question mark over the consultation process. Therefore, this bill—which gives more power to the Minister even though the consultation process is in doubt—must be modified by this amendment.

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [11.22 a.m.]: The Government supports Opposition amendment No. 1, which relates to the provision in the bill regarding the consultation process for the first management plan in a share management fishery. The amendment is minor and of no great significance. Given that there are concerns about the proposed provision, the Government is happy for it to be omitted from the bill.

Amendment agreed to.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.22 a.m.], by leave: I move Australian Democrats amendments Nos 1 to 5 in globo:

No. 1 Page 7, schedule 1 [12], proposed section 197C. Insert after line 21:

(2) Development within an aquatic reserve that is likely to significantly affect the environment is taken, for the purposes of the application of Part 4 of the *Environmental Planning and Assessment Act 1979* to that development, to be designated development.

No. 2 Page 8, schedule 1 [12], proposed section 197C (4), lines 18-25. Omit all words on those lines. Insert instead:

(4) In deciding whether or not concurrence should be granted under this section, the Minister must:

(a) give effect to the objects of this Act specified in section 3, and

(b) consider the objectives of the aquatic reserve under any management plan made under section 197A for the aquatic reserve, and

(c) take into consideration the permissible uses of the area concerned under this Act.

No. 3 Page 8, schedule 1 [12], proposed section 197C. Insert after line 38:

(7) The Minister is to take steps to ensure that consent authorities and determining authorities are made aware of the provisions of this section within 6 months after this section commences.

No. 4 Page 9, schedule 1 [12], proposed section 197D. Insert after line 9:

(2) Development affecting an aquatic reserve that is likely to significantly affect the environment is taken, for the purposes of the application of Part 4 of the *Environmental Planning and Assessment Act 1979* to that development, to be designated development.

No. 5 Page 9, schedule 1 [12], proposed section 197D. Insert after line 27:

(4) The Minister is to take steps to ensure that consent authorities and determining authorities are made aware of the provisions of this section within 6 months after this section commences.

As I said earlier, the Democrats are concerned that new section 197C as it stands is not adequate. Aquatic reserves are areas of great conservation value so there must be comprehensive inquiries into the impact of any proposed developments in such areas. The Bouddi marine extension of Bouddi National Park is an example of the value of aquatic reserves when there is a blanket ban on fishing. In his article in the *Sydney Morning Herald* of 28 November, James Woodford revealed that scientists from the School of Science and Technology at the University of Newcastle have found that the blanket ban on fishing at Bouddi has had a:

> … profound impact on fish stocks, resulting in more species, larger fish and huge populations compared with nearby areas.

This is just one example of how beneficial preservation of significant aquatic areas can occur if they are left undisturbed. Amendment No. 1 proposes that, if significant development within an aquatic reserve is likely to have a significant impact, an environmental impact statement should be prepared. Amendment No. 2 modifies the current section of the Act slightly. The Minister would be obliged to factor in the effects of development on the objects of the Act under section 3, which would ensure consideration of the management plan for a particular reserve. Amendment No. 3 seeks to ensure that co-operation and consultation occurs between the Minister and other authorities, such as Planning New South Wales, the National Parks and Wildlife Service and the Department of Land and Water Conservation, when developing programs. This will achieve the best outcomes in managing resources. Amendments Nos 4 and 5 apply amendments Nos 1 and 3 to section 197D. I urge honourable members to support the amendments, which will provide better protection for our aquatic reserves.

The Hon. IAN COHEN [11.25 a.m.]: The Greens support the amendments moved by the Hon. Dr Arthur Chesterfield-Evans. As to the example of Bouddi reserve, I mentioned yesterday in my contribution to the second reading debate the impact on the environment of that type of no-take zone. The Greens have argued for some time in favour of its positive impact on other fisheries. The implementation of no-take zones, protected areas and areas where there must be proper environmental impact statements and appropriate planning with regard to designated developments is an important move towards protecting fish populations in such areas, which would in turn increase productivity in surrounding locations. The effects of any development in such areas must be monitored closely, and I believe these amendments will go a considerable way towards establishing that monitoring process and acknowledging that these areas must be protected. As to amendment No. 3, consultation is always high on the Greens list of priorities. We believe these amendments are well and truly worthy of support.

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [11.26 a.m.]: The Government opposes all five Australian Democrat amendments. We reject amendments Nos 1 and 4 because they propose to list as designated developments all developments that occur within or affect aquatic reserves. This would require the preparation of environmental impact statements for any such developments. This is quite unnecessary given that a mechanism already exists under the Environmental Planning and Assessment Regulation 2000 to list activities as designated developments. That regulation already lists as

designated developments a range of activities that occur within or near environmentally sensitive areas, and aquatic reserves are included within that definition. Examples include extractive industries—or dredging—that occurs in or within 40 metres of environmentally sensitive areas, or waste management facilities that are located within 100 metres of such areas. There is no sense in duplicating this mechanism: if other activities need to be listed the regulation can be reviewed.

The Government does not support amendment No. 2 as it does not add anything of substance to the wording of the Act. The bill's proposed provisions mirror those in the Marine Parks Act, which were agreed to by this Chamber last year. It would be simpler for councils and other bodies if the provisions were consistent. The changes proposed in amendments Nos 3 and 5 are unnecessary and inappropriate. The Government will not commence the aquatic reserve provisions until New South Wales Fisheries has advised consent and determining authorities of the changes. New South Wales Fisheries will also advise them of the date upon which the changes will come into effect. It would be irresponsible to advise consent and determining authorities only after the changes have come into effect.

Amendments negatived.

The Hon. IAN COHEN [11.29 a.m.]: I move Greens amendment No. 2:

No. 2 Page 14, schedule 1 [29], proposed section 221IA, lines 17-23. Omit all words on those lines. Insert instead:

(1) The Minister may make an order authorising a class of persons to carry out an activity that may result in harm to a threatened species, population or ecological community.

The bill allows the Minister to make an order authorising a class of persons to damage threatened species and threatened species habitat. The Greens oppose the making of these orders but particularly opposes the making of an order relating to habitat. The amendment would remove the part of the clause that applies to habitat and prevent the Minister from making an order which places important habitats at risk from damaging activities. I commend Greens amendment No. 2 to the Committee.

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [11.29 a.m.]: The Government opposes this amendment. The bill contains a provision that will allow orders to be made permitting a class of person to carry out activities which may damage a habitat of, say, an endangered ecological community. This is necessary because there may be some activities which have a low impact on the habitat but nonetheless might technically be regarded as damaging to the habitat. As mentioned previously, the catchment area for the lower Murray aquatic community covers a massive area—14 per cent of the State. There is a requirement to prepare and publicly exhibit a species impact statement and consider all the issues raised. This is entirely consistent with the existing threatened species framework and the existing exemptions from the current threatened species habitat provisions. Blanket rules that ban all activities are contrary to the principles of ecologically sustainable development, which requires that decisions be made by weighing up all the relevant environmental, economic and social issues.

The Hon. JENNIFER GARDINER [11.31 a.m.]: I support the remarks made by the Minister relating to this amendment. An example of an industry in the south-west of the State that may potentially be affected if the bill were amended as suggested by the Hon. Ian Cohen would be the tourism industry based on the river at Moama. The Coalition would not want to jeopardise that type of industry in that part of the State, particularly as the provisions of the bill allow for habitat to be protected. A technical breach of habitat provisions could be quite devastating for a town such as Moama.

Amendment negatived.

The Hon. RICHARD JONES [11.32 a.m.], by leave: I move my amendments Nos 1, 2 and 3 in globo:

No. 1 Page 14, schedule 1 [29], proposed section 221IA. Insert after line 26:

(4) Before making an order, the Minister must provide:

(a) the Fisheries Scientific Committee, and

(b) any advisory council established under section 229 that, in the opinion of the Minister, has an interest in the proposed order,

with a copy of the proposed order, and must invite the Committee and any such council to provide advice, within such period as the Minister may specify (being a period of not less than 30 days), on the proposed order.

No. 2 Page 15, schedule 1 [29], proposed section 221ID. Insert after line 16:

(2) For the purposes of that public consultation procedure, a copy of the species impact statement and a copy of any advice received by the Minister under section 221IA is to be exhibited with the proposed order as provided by section 284.

No. 3 Page 15, schedule 1 [29], proposed section 221IE. Insert after line 21:

(b) any advice of the Fisheries Scientific Committee, and any advice of any advisory council established under section 229 that, in the opinion of the Minister, has an interest in the proposed order, received under section 221IA,

Amendment No. 1 ensures that the Fisheries Scientific Committee, together with any relevant fisheries advisory council, is consulted on any ministerial order that is proposed be made under the legislation and the committee and/or council will have at least 30 days in which to provide advice. Amendment No. 2 ensures that any expert advice provided by the Fisheries Scientific Committee, together with a species impact statement, must be exhibited during public consultation on any proposed ministerial order. Amendment No. 3 provides that the Minister must take into account any expert advice provided by the Fisheries Scientific Committee, together with advice from any relevant fisheries advisory council before making a ministerial order.

The Hon. IAN COHEN [11.32 a.m.]: I place on record the strong support of the Greens' for the position put forward in these amendments. The reference to the scientific committee and the management of the exhibition of species impact statements are all part of a communication process that has been sadly lacking in the past. Any expert advice that comes from advisory councils and is noted is, I think, a step in the right direction towards improving what has been a rather poor level of communication within the industry. I might say, that was primarily due to the previous Minister for Fisheries. Hopefully, by acceptance of amendments such as those before the Committee, there might be some improvement.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.33 a.m.]: The Australian Democrats support these amendments as a sensible deference to scientific facts.

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [11.33 a.m.]: The Government will support all three amendments moved by the Hon. Richard Jones. I thank honourable members who have indicated their support. As to amendment No. 1, I point out that I previously agreed in a letter to the chair of the Fisheries Scientific Committee to consult the committee as matter of policy. This amendment merely recognises this fact and records that I will also consult key advisory councils. The amendment is acceptable to the Government.

With regard to amendment No. 2, I point out that the Government has already proposed in this bill to develop a species impact statement when it is proposed to issue a ministerial order, and to release the species impact statement for public review. This amendment requires the exhibition, together with a species impact statement, of any advice received from the Fisheries Scientific Committee or the Minister's advisory council. Again, this seems to be a sensible addition to the Government's bill. I thank the Hon. Richard Jones for his suggestion. As to amendment No. 3, I point out that the amendment requires the Minister to take into account the views expressed by the Fisheries Scientific Committee and any relevant advisory council to which I refer the issues. As I have already agreed to circulate any proposals to these groups, it is only sensible in making any decisions that I then take into account their advice. Naturally I would do so as a matter of course.

The Hon. JENNIFER GARDINER [11.35 a.m.]: The Opposition is also pleased to support these three amendments that have been moved by the Hon. Richard Jones because they underscore the provisions relating to consultation. The amendments will make it compulsory that the Fisheries Scientific Committee and relevant advisory councils' views are taken into account. For that reason the Opposition believes that they are worthy of support.

Reverend the Hon. FRED NILE [11.35 a.m.]: The Christian Democratic Party is pleased to support these amendments.

Amendments agreed to.

The Hon. IAN COHEN [11.36 a.m.], by leave: I move Greens amendments Nos 3 and 6 in globo:

No. 3 Page 15, schedule 1 [29], proposed section 221IE, lines 28-33. Omit all words on those lines.

No. 6 Page 16, schedule 1 [29]. Insert after line 24:

221IH Application of the precautionary principle

The Minister must not make an order or an interim order unless the Minister is satisfied that making such an order will not:

(a) reduce the long term viability of the species, population or ecological community in the region, or

(b) contribute to the extinction of the species or ecological community, or place it at risk of extinction.

These amendments change the circumstances in which the Minister is able to make an order allowing for a class of persons to carry out activities that may harm a threatened species population or ecological community. Amendment No. 3 applies the precautionary principle. This is an important principle, which means that a cautious approach must be applied where there is a risk of serious environmental harm. Unless the Minister is satisfied that making the order will not reduce long-term species viability or contribute to the extinction of a species, the amendment prevents the Minister from making an order. The purpose of the amendments is to prevent the Minister from making a decision which is likely to cause serious or irreversible environmental harm. I commend Greens amendments Nos 3 and 6 to the Committee.

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [11.37 a.m.]: The Government opposes amendments Nos 3 and 6. These amendments alter a fundamental tenet of the current threatened species framework. They impose an absolute requirement, effectively banning an activity that may only have very minor impact on threatened species.

Amendments negatived.

The Hon. IAN COHEN [11.37 a.m.], by leave: I move Greens amendment Nos. 4, 5 and 7 in globo:

No. 4 Page 16, schedule 1 [29], proposed section 221IE, lines 1-2. Omit all words on those lines.

No. 5 Page 16, schedule 1 [29], proposed section 221IG, lines 21 and 22. Omit all words on those lines. Insert instead:

(4) The Minister is not obliged to comply with the requirements of sections 221IC, 221ID, 221E (1) (a)-(b) or 221IF in relation to the making of an interim order.

No. 7 Page 16, schedule 1 [29]. Insert before line 25:

221IH Reasons for making order

The Minister must give reasons for making an order or an interim order, including the following:

(a) the weight given to the various matters that the Minister is required to take into account,

(b) the nature of any risk identified that requires application of the precautionary principle,

(c) if the order is contrary to the advice of the Fisheries Scientific Committee, the reasons why the Minister has formed a different view.

Amendment No. 4 removes an unnecessary reference to social and economic consequences but does not ignore social and economic consequences. The Minister is already directed to consider these consequences under a previous subsection in accordance with the principles of ecologically sustainable development. Regarding amendment No. 5, I point out that the bill does not provide sufficient guidance to the Minister in making an interim order. The only consideration is the need to reduce social and economic impacts. This means that environmental considerations can be effectively ignored by the Minister.

The amendment directs the Minister to take environmental considerations into account in addition to the social and economic impacts of the order. Amendment No. 7 requires the Minister to give reasons for making an order and specifies the matters which the Minister must address in his or her reasons. The purpose of the amendment is to make the Minister more accountable to the community. Without the amendment, there will be reduced opportunity for public scrutiny of the decision-making process. I commend Greens amendments Nos 4, 5 and 7 to the Committee.

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [11.39 a.m.]: The Government opposes Greens amendments Nos 4, 5 and 7. As to amendment No. 4, ecologically sustainable development requires that decisions be made weighing up all the relevant environmental, economic and social issues. Generally speaking, if the environmental cost of allowing particular activities is negligible and the economic and social benefits are very significant the activity should be allowed. The Government, therefore, opposes this amendment. As to amendment No. 5, the independent Fisheries Scientific Committee operates to strict statutory time lines for receiving, considering and determining nominations for threatened species listings and is not under the control of either the Minister or the Department of Fisheries. If a declaration is made, the Minister of the day needs to be able to make an interim order with very little notice.

Amendment No. 5 would place constraints on the Minister's ability to do this and would require additional process and substantial time to fulfil all the necessary requirements. An interim order should be able

to be made quickly to avoid the banning of significant activities, such as all recreational fishing on the Murray River. As to the reasons the Government opposes amendment No. 7, any future fisheries Minister would be publicly accountable for the way he or she uses the discretion to make orders and interim orders. There are already established mechanisms in place to make the reasons for ministerial decisions known. For example, the reasons for significant decisions I make are generally faxed to key stakeholders and placed on the Internet. This amendment would simply result in an unnecessary bureaucratic process.

Amendments negatived.

The Hon. RICHARD JONES [11.41 a.m.], by leave: I move amendments Nos 4, 5 and 6 in globo:

No. 4 Page 16, schedule 1 [29], proposed section 221IF. Insert after line 5:

(2) The Minister is to publish the reasons for making the order in the Gazette at the same time the order is published.

No. 5 Page 16, schedule 1 [29], proposed section 221IG, line 19. Omit "6 months" from that line. Insert instead "12 months"

No. 6 Page 16, schedule 1 [29], proposed section 221IG. Insert after line 20:

(4) An interim order cannot be remade if preparation of the species impact statement has not commenced.

(5) An interim order permitting the continuation of an activity that may result in harm to an endangered species, endangered ecological community or an endangered population cannot be remade on more than two occasions.

(6) An interim order permitting the continuation of an activity that may result in harm to a vulnerable species cannot be remade on more than four occasions.

Amendment No. 4 ensures that the Minister must publish the reasons for ministerial orders in the *Government Gazette* when orders are made. That is a fairly straightforward amendment. Amendment No. 5 ensures that interim orders can remain in force for only 12 months. Amendment No. 6 ensures that interim orders can be remade only if the appropriation of a species impact statement has been commenced. It also ensures that interim orders which permit activities that may harm an endangered species, ecological communities or populations can be remade only twice and interim orders that permit activities that may harm vulnerable species can be remade up to four times. This, in effect, ensures that species impact statements must be completed in the same time frame as currently set out for a recovery plan in division 5 of the Fisheries Management Act.

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [11.45 a.m.]: The Government opposes these three amendments. As to amendment No. 4, established mechanisms are already in place to make known the reasons for ministerial decisions. For example, the reasons for significant decisions I make are generally faxed to key stakeholders and placed on the Internet. The Government does not believe it is necessary to mandate that the reasons be published in the *Government Gazette*. As to amendments Nos 5 and 6, interim orders are sensible measures that allow existing activities to continue for a period while the species impact statements are being prepared and considered. Without them, the traditional logic of the threatened species framework is reversed.

First, the activity would be banned, and only after it was banned would social and economic implications be considered. Clearly, such an approach would be a nonsense and would be totally at odds with the integrated decision making required by ecologically sustainable development principles. In cases where the species impact statement and the subsequent community consultation takes longer than expected, more than one interim order may be required. This could occur, for example, if a peer review of a draft species impact statement suggests significant changes. While the Government will have the power to remake a six-month interim order, the bill makes it clear that an interim order can be made only to permit the assessment of a proposed permanent order. This addresses concerns about interim orders being remade forever. Any future fisheries Minister would be publicly accountable for the way he or she uses the discretion to make interim orders.

Amendments negatived.

The Hon. JENNIFER GARDINER [11.46 a.m.]: I move National Party amendment No. 2, on behalf of the Opposition:

No. 2 Page 17, schedule 1 [29]. Insert after line 10:

221IK Transitional limitation on making orders relating to salt water fish

(1) Despite any other provision of this Act, the Minister may not make an order or interim order under this Division in respect of an activity that may result in harm to a salt water fish species, or damage to the habitat of such a species, unless the order is expressly permitted by a regulation made for the purposes of this section.

(2) This section ceases to have effect on 1 January 2003.

As I said earlier in debate, there is a great deal of angst in a number of circles about the threatened species provisions of this bill. In particular, I have expressed concern about the possible implications for the commercial fishing industry's battle with the fisheries Minister in the Land and Environment Court. The Professional Fishermen's Association initiated action in that court earlier this year seeking orders that the Minister for Fisheries should not issue recreational fishing licences without first carrying out environmental impact statements in respect of those licences. That case is a sort of flip side to another Land and Environment Court case in which the Minister was found to have issued commercial fishing licences without first having ensured that environmental impact statements had been undertaken as required by the law as it was then.

As honourable members will recall, that crisis necessitated the last round of a major rewrite of the Fisheries Management Act about this time last year. The ProFish litigation touches upon the protection of threatened fish species in salt water. Hence, some people hold the fear that the threatened species provisions of this bill may serve to undermine that court case. The fisheries Minister has given a written assurance, which was read onto *Hansard* in the other place by my colleague the honourable member for Murrumbidgee, Mr Adrian Piccoli, that the Government's bill is not aimed at such undermining of the court case.

I appreciate the Minister giving that assurance. However, the Professional Fishermen's Association legal advisers remain of the opinion that there needs to be some guarantee by way of this amendment of the saltwater environment from the impact of the Government's bill in relation to threatened species provisions for a reasonable time so that the court case is not undermined or detonated. As I said in my contribution to the second reading debate, the Opposition supports the Government's endeavours to now take seriously the National Party 1997 warning about making workable the threatened species provisions of the Fisheries Management Act.

We support the thrust of the amendment bill. However, amendment No. 2 is needed so as to make the conduct of the Land and Environment Court case more secure and to make sure that there is no actual or perceived undermining of the court case by the Executive Government or by the Parliament in concert with the Government. This amendment makes a transitional arrangement so that there is a quarantining, in effect—unless express permission is given by way of a regulation, which would have to be laid before this place—of the Minister making an order or an interim order under the new threatened species provisions in relation to an activity that may result in harm to a saltwater fish species. The provision will run until 1 January 2003, so there will be a reasonable time in which to conclude the court case. I urge the support of honourable members for this important provision.

The Hon. IAN COHEN [11.48 a.m.]: The Greens believe that the amendment moved by the National Party is very reasonable. The amendment would be in force for a short period of time. I have received a significant amount of communication from professional fishers, particularly ProFish New South Wales. I will not give any details, but I have spoken with them on the phone. In terms of fisheries resources and potential damage to fisheries, the time frame to January 2003 seems reasonable in the circumstances to allow for an important court procedure to take place, which may have significant environmental benefits.

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [11.49 a.m.]: The Government will support this amendment. We do not believe that these threatened species amendments have, or should have, any impact on legal proceedings currently being taken by ProFish against the New South Wales Government. The Government is happy to agree to the amendment.

Reverend the Hon. FRED NILE [11.50 a.m.]: The Christian Democratic Party supports the amendments, even though we accept the Minister's assurance that the bill in its original form would have had no effect on the court case. To remove any doubt it is best to have the amendment.

Amendment agreed to.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Title agreed to.

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

ROAD TRANSPORT LEGISLATION AMENDMENT (HEAVY VEHICLE REGISTRATION CHARGES AND MOTOR VEHICLE TAX) BILL

Second Reading

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [11.52 a.m.]: I move:

That this bill be now read second time.

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

Leave granted.

As honourable members would be aware, the heads of government in all Australian jurisdictions agreed in 1991 and 1992 to a process of national reform of road transport law. New South Wales has already introduced the bulk of this reform. The reform process included the development of a common system of registration charges for heavy vehicles as well as a conditional registration scheme to replace long-term unregistered vehicle permits issued to vehicles which are, by reason of their design or purpose, unsuited for normal registration. The purpose of the bill is to introduce measures to support the implementation of these two components next year. It does this by enabling New South Wales to keep pace with nationally uniform movements in heavy vehicle registration charges and ensuring that the charges under a conditional registration scheme are no higher than charges for unregistered vehicle permits.

I will deal first with registration charges for heavy vehicles. In New South Wales, the reform was implemented by the Road Transport (Heavy Vehicles Registration Charges) Act 1995. That Act commenced on 1 July 1996 and applied to all vehicles with a gross vehicle mass of more than 4.5 tonnes. There is no doubt that the introduction of nationally uniform heavy vehicle charges into New South Wales has delivered substantial productivity savings to our trucking industry. The introduction of national charges by this Government in 1996 resulted in productivity savings to industry of $59 million in 1996-97. Further savings from flow-on effects are estimated to be $62 million in 1997-98 and up to $71 million in 1998-99. The States, Territories and Commonwealth are committed to a process of continually reviewing nationally uniform regulations and charges that impact upon the heavy vehicle industry. This commitment is detailed in the 1998 Revised Heads of Government Heavy Vehicles Agreement.

As part of this review Australian transport Ministers agreed in May 2001 that heavy vehicle registration charges should be adjusted annually by a formula developed by the National Road Transport Commission. This decision should minimise the current disparity and prevent further distortion between the charges levied on light and heavy vehicles. This bill seeks to implement this decision by Australian governments. One of the main objectives of the National Road Transport Commission is to develop and recommend national road-user charges for heavy vehicles. The charges are generally based on the most recent data and the relationship between road wear and road use by heavy vehicles. The charges are designed to promote equity in registration charges for heavy vehicles around the nation and, as their initial introduction in 1996 demonstrates, they have delivered substantial productivity and efficiency savings to the trucking industry.

Unlike other costs faced by industry, there were no increases in heavy vehicle charges between their initial introduction in 1996 and the adoption of new charges in July 2000. However, the July 2000 charges represented only a marginal increase for most operators—between 1.4 per cent and 2.1 per cent of total vehicle operating costs. In New South Wales approximately 61 per cent of the heavy vehicle fleet experienced no increase as a result of the adjustments in July 2000. Heavy vehicle charges are not subject to consumer price index [CPI] changes and since their introduction in 1996 have not been adjusted to take into account the impact of inflation. Between 1995 and 1999 it is estimated that the real value of charges, especially their ability to maintain a given level of expenditure on road maintenance, has been eroded by some 3 to 4 per cent.

In contrast, charges for light vehicles in New South Wales—vehicles less than 4.5 tonnes—are subject to annual indexation based on movements in the CPI. The formula that has been developed by the National Road Transport Commission and approved by the Australian Transport Council is based on changes in road expenditure, modified to reflect changes in road use by heavy vehicles. The formula also includes a ceiling of underlying inflation—CPI adjusted to remove the initial impact of Commonwealth changes to the tax system. This has been included to prevent dramatic rises in registration charges that would result where road expenditure significantly increases in one or two given years. The initial application of the formula was agreed to commence from 1 October 2001 or as soon as possible thereafter. The application of the formula will be published and the charges included in regulations. The introduction of an initial adjustment involves a 3.30 per cent increase in heavy vehicle registration charges. This represents 0.04 per cent of total operating costs.

The bill retains a safeguard to ensure that farmers will pay no more in national charges than they would have paid in New South Wales motor vehicle tax. The second purpose of this bill is to provide an exemption from registration charges for vehicles registered under a conditional registration scheme. Under the national scheme which New South Wales proposes to introduce next year the duration of an unregistered vehicle permit is for a period of up to 28 days, with longer terms of up to 12 months being covered by conditional registration. Under the current scheme in New South Wales about 33,000 unregistered vehicle permits are issued each year for periods of one to 12 months. In future, these permits will be replaced by conditional registration. Vehicles covered by the scheme are those built to perform specific operational functions; or which do not comply with Australian design rules or other vehicle standards and make infrequent use of the road.

Typically these vehicles are agricultural and roadwork machinery, forestry and mining vehicles, all-terrain vehicles and golf buggies. Annual permits have also been issued to veteran and vintage vehicles because of their restricted road use. Conditional registration overcomes many of the disadvantages of the unregistered vehicle permit system by providing vehicle identification,

facilitation of on-road enforcement and registration renewal notices. The operation of eligible vehicles will continue to be restricted by the application of registration conditions, which will overcome or moderate the vehicles' performance limitations and restrict the vehicles' use of the road network. This bill is to allow New South Wales to introduce the conditional registration scheme in such a way that ensures that operators pay no more in charges for conditional registration than they currently do for unregistered vehicle permits.

Unregistered vehicle permits do not attract stamp duty, motor vehicle tax or national charges. This Government is committed to a financially-neutral transition to a conditional registration scheme. To this end, on 31 January 2000 the Treasurer agreed in principle to provide the necessary exemptions from stamp duty. Honourable members may recall that the State Revenue Legislation Amendment Act 2001 amended the Duties Act 1997 so that vehicles that currently operate under long-term unregistered vehicle permits will not be subject to stamp duty. The amendments to the Motor Vehicles Taxation Act 1988 proposed by this bill are aimed to ensure that the current charges paid by light vehicles are not increased under the new scheme. Similar amendments are made for heavy vehicles covered by the Road Transport (Heavy Vehicles Registration Charges) Act 1995.

It should be noted that farmers currently operate approximately 65 per cent of the vehicles that will be affected by the introduction of a conditional registration scheme. The New South Wales Farmers Association has been consulted during the development of the scheme and has strongly expressed the desire for minimal financial impact on their members upon the implementation of the scheme. With consideration to this issue, it is proposed to charge the same administrative fee for conditional registration as that which currently applies to the issue of an unregistered vehicle permit. I commend the bill to the House.

The Hon. CHARLIE LYNN [11.52 a.m.]: The purpose of the Road Transport Legislation Amendment (Heavy Vehicle Registration Charges and Motor Vehicle Tax) Bill is to amend the Road Transport (Heavy Vehicles Registration Charges) Act 1995 in accordance with the recommendations of the National Road Transport Commission. This will allow for an initial adjustment of charges and the indexation of heavy vehicles, that is, vehicles over 4.5 tonnes. The vehicle registration charges will be based on a formula developed by the National Road Transport Commission and approved by the Australian Transport Council.

The amendments to the Motor Vehicles Taxation Act provided for a conditional registration scheme for vehicles not eligible for normal registration because they do not comply with Australian design rules, or require only limited access to the roadway or compulsory third party [CTP] insurance—for example, agricultural and mining vehicles. The amendments remove the unregistered vehicles permit system and allow for a conditional registration system. They also allow the pro rata amount of the registration fee, depending on the day it is needed, with provision that the registering authority may impose a surcharge of 10 per cent if registration is for less than a year.

The Opposition will oppose this bill in matters concerning the indexation of registration charges for heavy vehicles. The Carr Labor Government's decision to subject the registration charges on vehicles weighing more than 4.5 tonnes to indexation is the latest in a long line of revenue-raising ploys by this tax-hungry Government. On this occasion the Government has chosen to target heavy vehicle operators from truck owners to farmers throughout New South Wales. The Government bill seeks to link heavy vehicle registration charges to consumer price index changes by way of a complex formula. It is estimated that the initial adjustment alone will slug operators with a 3.3 per cent increase in heavy vehicle registration charges.

Annual increases will follow. When added to the increased registration charges introduced by the Labor Government last year, it is clear that heavy vehicle operators around the State are being dealt a savage blow by the Carr Labor Government. Small operators in particular will be hard hit by these increases and will find it extremely difficult to absorb the costs. No doubt, for some operators it may well be the proverbial straw that breaks the camel's back. The flaws in the system extend beyond the financial hardships that it will doubtless cause. One of the foremost complaints with the indexation of registration charges is that increases to charges are automatic and occur each year, without consultation and without justification.

Indexation will see the end of the current method by which registration charges are determined. The current method is, for the most part, regarded by heavy vehicle operators in a positive light because it is objective and accountable, and open to industry and public scrutiny. The process of indexation, however, has none of those features. Indexation will undermine completely the credibility of the existing open and accountable method of determining these charges, and put in its place a non-transparent system. The Opposition believes that any increase in registration charges should not be automatic.

As is the case with any other tax or government charge, any decision to increase charges should be arrived at after a transparent process, a process open to both public debate and scrutiny, and to industry input. Instead, as was noted during the second reading debate on this bill in the other place, the application of the formula for indexation will be published and the charges will be hidden away in regulations. These regulations

will be promulgated annually and, unless a disallowance is moved and accepted by the Parliament, it is inevitable that charges will continue to roll on with little or no public scrutiny, and with little or no industry input. The concerns of the trucking industry are based largely on that lack of assurance of open, objective and credible scrutiny in the determination of truck registration charges.

In correspondence relating to this same topic last year the Australian Trucking Association noted that there are three fundamental reasons why indexation should not be introduced to heavy vehicle registration charges. First, it will take the pressure off the Federal Government and other levels of government to properly address the allocation of funds collected from the trucking industry for road infrastructure. Second, it would be contrary to the way global business operates today. Rather than costs increasing through indexation, efficiencies are sought on an annual basis to reduce the net costs for the provision of services. Third, it would ultimately lead to unjustified costs being imposed on the trucking sector, which in turn would have a negative impact on the industries that it serves.

This bill, which will see automatic registration increases, is an example of taxation by stealth by a sneaky and very greedy Labor Government. It is another example of the Carr Labor Government hitting the little people—the farmer, the owner-driver, the truck operator and the harvester, and the list could go on—in order to satisfy its desire for more tax dollars. I can see from the body language of the Minister for Mineral Resources, who is at the table, that he agrees with me on this issue. These are the very people that he is supposed to protect in his ministry. It is quite obvious to me that if the Minister had a personal view to express on this matter he would agree with the Opposition. It is unfortunate that he obviously did not have the numbers in the Caucus to support him.

In the second reading speech the Government justified the indexation of charges as necessary due to the relationship between road wear and road use by heavy vehicles. The presupposition that indexation will form some sort of user-pays system on the roads, however, is fundamentally flawed. Some vehicle classes are forced to pay a road user charge that is not at all reflective of the amount of wear they cause to the road. Those who own heavy vehicles do not always operate them on a regular basis. For example, semitrailers and three-axle vehicles are popular amongst grain farmers in the north-west of the State, who use them for hauling grain short distances to the local silo. These vehicles may travel only 7,000 kilometres a year and often only during certain times of the year. Blanket indexation of registration charges will result in the owners of these vehicles being subjected to ever-increasing registration charges, despite their minimal impact on the roads. This is grossly unfair. I can see the Minister agreeing with me on that aspect of the bill.

The Hon. Eddie Obeid: Come on, stop verballing me.

The Hon. CHARLIE LYNN: You were nodding. In recent correspondence the New South Wales Farmers Association approached the issue of inequity, stating, "The national registration charges still do not recognise the low distances travelled on the road by primary producers. Until they do we believe primary producers are overcharged." I can see that the Minister agrees with that quote. Although the bill retains the safeguard that farmers will pay no more in national charges than they would in New South Wales motor vehicle tax, since the motor vehicle tax is automatically indexed—

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

POLICE PHYSICAL COMPETENCY TESTS

The Hon. MICHAEL GALLACHER: Is the Minister for Police aware of concerns about the physical competency testing regime currently in place at the Goulburn police academy? Does the physical competency testing involve the use of firearms? Considering the high failure rate for female recruits undertaking the testing, is it a fact that the testing is too reliant on strength rather than fitness or overall ability? Would the Government and the Police Service consider a return to previous practices whereby a physical test is the first, rather than last, requirement of the recruitment and training process, thus saving considerable money on training recruits only to have them fail at the last hurdle?

The Hon. MICHAEL COSTA: I am very glad that the honourable member asked me that question because I would like to make some comments on the disgraceful position that the shadow Minister for Police took yesterday when he attacked—

The Hon. Michael Gallacher: You are the police Minister.

The Hon. MICHAEL COSTA: The shadow police Minister, I said. You should listen. The shadow Minister attacked those wonderful young men and women who are in the academy at the moment learning, training and obtaining education and skills to perform the policing function. Yesterday we had the disgraceful situation of the Opposition, in its haste to run its nonsense campaign on police numbers, putting out false information about failure rates at the academy. Currently while students are seeking to pass rigorous and important examinations, the Opposition is trying to demoralise them. It is an absolute disgrace. If Opposition members are seriously interested in policing, they ought to be encouraging the students rather than making silly comments discouraging the fine men and women who want to join the New South Wales police force. It is a disgrace. Opposition members ought to be ashamed of themselves. Let us get the facts right about policing. Only 5 per cent of police are lost each year. At 31 August, there were 13,712 in the New South Wales Police Service, which is a thousand more police then under the Coalition.

The attrition rate is 5.6 per cent per annum—not 20 per cent, not 30 per cent, not 40 per cent as the Opposition claims. Somebody calls the Opposition spokesman Tinkerbell because he is from never-never land. He never has any ideas. He never has any policies, and he is never, never going to be police Minister. We are dealing with a bankrupt Opposition that has no idea about policing matters. All Opposition members can do is continually seek to demoralise the men and women of the police force. They should stand up for the fine men and women of the Police Service and the students at the police academy. They are the future of policing.

SMALL MINE SAFETY

The Hon. AMANDA FAZIO: My question is to the Minister for Mineral Resources. What action is being taken to improve safety in small New South Wales metalliferous mines?

The Hon. EDDIE OBEID: I thank my colleague the Hon. Amanda Fazio for her important question and continuing interest in protecting the safety of our mineworkers. The New South Wales Government is committed to improving mine safety. Indeed, we have allocated nearly $14 million to better protection for those working in our mines. Part of this commitment includes targeting our small mines. The New South Wales Government's small mines safety education campaign was developed to help metalliferous mine operators better protect their workers. Our commitment is supported by changes in legislation. New safety requirements have been in place since September 2000. Last November we began a series of regional workshops designed to help small mine operators improve safety. Each workshop is divided into two sections, which are held approximately three months apart. Between these training days the Department of Mineral Resources Safety Operations staff visit participating mines to help companies develop their safety plans.

The mining industry has been very positive about these workshops. To date, 189 mines and 255 operators have taken part in 12 courses. By the end of the current campaign, the safety operations staff will have visited 378 mine sites. I am pleased to say that our workshops have been so successful that more are planned in the new year. At this stage workshops are planned for Lismore and Tamworth in February and for Wollongong in March. Another workshop will be held at Raymond Terrace in late February. Others will be held in the State's Central West at Orange in March and at Wagga Wagga in May. The New South Wales Government is working closely with industry to improve safety in our small mines. We are determined to provide better protection for our small mine workers, and that is good news for country families and good news for workers in those small mines.

POLICE COLLEGE CONSERVATION OFFICER TRAINING

The Hon. DUNCAN GAY: My question is to the Minister for Police. Considering his repeated pledges to increase police numbers across New South Wales, can he inform the House how many training hours at the Goulburn police academy have been and are currently being taken up in teaching water and vegetation compliance techniques to conservation officers from the Department of Land and Water Conservation? What effect does this have on the resources of the academy and the academy's ability to perform its key function of training police officers?

The Hon. MICHAEL COSTA: That is a very good question.

The Hon. Michael Egan: It should have been placed on notice.

The Hon. MICHAEL COSTA: I do not mind receiving questions like that, and I will find out the answer and come back to the honourable member.

The Hon. DUNCAN GAY: I ask a supplementary question. Is the Minister aware that the Minister for Land and Water Conservation has confirmed that 24 staff have already completed a two-week course at the academy, with another 24 staff to undergo the course? If the Minister is not aware of that, why not?

The Hon. MICHAEL COSTA: I am amazed that the honourable member asked me a question to which he purports to have the answer. That is another example of an Opposition without a policy, playing politics and wasting the time of this House and the community. I know the Opposition very well, so I will check whether it has the right answer, because it is not beyond this Opposition to get it wrong.

POLICE SERVICE STAFF ACCESS

The Hon. HELEN SHAM-HO: My question without notice is to the Minister for Police. I refer to an incident yesterday when I telephoned the Coordinator of the Ethnic Community Liaison Officer [ECLO] program, Shobha Sharma, to find out more about that program. I was told that she was on leave but that Chitrita Mukerjee, the team leader of the Cultural Diversity Team, would call me back. My office received a telephone call from Edwina Cowdery, portfolio manager of the office of the Commissioner of Police, who said I would have to write to the Minister for Police about my query. The Minister would then pass my query on to the Commissioner of Police, who would then pass it on to the relevant staff member for a written response.

Will the Minister explain why this protocol is necessary and why a member of Parliament cannot speak directly to staff of the Police Service about its program? Does the Minister agree that this process is unnecessarily cumbersome and that it can sometimes take weeks for a simple question to be answered? Will the Minister advise what he will do to facilitate open, accessible and timely communication between Police Service employees and members of Parliament?

The Hon. MICHAEL COSTA: As the honourable member would be aware, it is common policy in many departments that inquiries to Ministers go through the relevant process.

The Hon. Michael Egan: The Greiner Government established that protocol.

The Hon. MICHAEL COSTA: I have been informed that the Greiner Government established that protocol.

The Hon. Michael Gallacher: Don't believe anything he tells you.

The Hon. MICHAEL COSTA: I would rather believe him than believe any of you guys. I will look into the matter and determine whether the protocol was applied appropriately in this case.

SOCIAL AND COMMUNITY SERVICES AWARD

The Hon. HENRY TSANG: My question without notice is to the Treasurer, and Minister for State Development. What action is the New South Wales Government taking in regard to a recent pay rise awarded to workers in non-government organisations that provide social services in this State?

The Hon. MICHAEL EGAN: That is a good question from the Hon. Henry Tsang. As honourable members would be aware, thousands of workers covered by the Social and Community Services Award [SACS] have been given pay rises of between 5.5 per cent and 7.5 per cent effective from 28 November.

The Hon. John Ryan: Not before time.

The Hon. MICHAEL EGAN: The Hon. John Ryan said, "Not before time". I agree with that. The SACS award increase was a long time in coming. That 5.5 to 7.5 per cent increase costs money and the non-government organisations that have to pay those increases to their employees rely upon government to provide them with those funds. I assure the House that the New South Wales Government is doing precisely what the people of this State would expect—it is paying its share of that pay increase. It is costing the taxpayers of New South Wales between $30 million and $40 million.

The Government is paying the full amount of its share to enable the non-government organisations to pay the increase to their staff. However, the Commonwealth Government is not following the example of the New South Wales Government. Those workers provide vital services that include disability care, supported accommodation, some childcare and Meals on Wheels, all much-needed services.

The Hon. Duncan Gay: Talk to the small businesses, the ones waiting for your area health services to pay their bills.

The Hon. MICHAEL EGAN: If the Deputy Leader of the Opposition has any details about that, I ask him to give them to me.

The Hon. Duncan Gay: Absolutely.

The Hon. MICHAEL EGAN: If that is the case, I want to know about it and I want to do something about it. People depend on those services every day. The Commonwealth has an obligation, just as the New South Wales Government has an obligation, and we are fulfilling our obligation. Those organisations provide services on behalf of the Commonwealth Government, which pays for it. On 23 November I announced that the New South Wales Government would cough up $30 million to $40 million to pay its fair share. I wrote the Federal Treasurer asking him to confirm that the Commonwealth would meet its share, about half the cost of those pay rises. The response from Mr Costello has been a deafening silence, not a word in reply to me.

That approach simply means that the Commonwealth is causing great distress throughout the community. The Commonwealth so far has not given any indication whether it will pay its fair share. Do we hear anything from the State Opposition on this issue? Not a single word. The Opposition is not interested in helping the community organisations throughout the State or the people whom the organisations employ. We hear nothing from the Liberal Party and nothing from the National Party, despite the fact that people in need in the regions will be hit. For example, I am told that it would cost the Commonwealth about $1,000 a year to meet its share of the cost to keep Meals on Wheels services at their current level in Gunnedah. The State Government has already provided its share, but the Commonwealth has done nothing.

We have heard absolutely nothing from the National Party. Only $1,000 is required to keep Meals on Wheels operating at current service levels in Gunnedah. In Tamworth it will cost the Commonwealth just $4,000 a year to keep Meals on Wheels going. [*Time expired.*]

The Hon. HENRY TSANG: I ask a supplementary question. Will the Treasurer elucidate on his reply?

The Hon. MICHAEL EGAN: I am happy to do that. What is more, we are hearing a deafening silence when it comes to programs such as the National Respite for Carers and Commonwealth Carelink programs, which are fully funded by the Commonwealth Government. Without an urgent injection of Federal funds those services will have no choice but to shed services, shed clients and shed staff. What will happen to the people who rely on those services? They will be forced to turn to State-run services, which may not cater specifically to their needs. This is an outrageous and mean-spirited abdication of responsibility by the Federal Government and its Liberal Party and National Party colleagues in New South Wales. They should be condemned for the distress they are causing to the needy people of New South Wales.

If the New South Wales Government can come up with its fair share, $30 million or $40 million, within a day of the award being made, the Commonwealth Government should do likewise. Every member of the Opposition, every member of the National Party and every member of the Liberal Party in this Parliament knows that that is the case. I call upon them to contact the Federal Government and the Federal Treasurer to get assistance for the people of New South Wales.

STATE BUDGET SURPLUS

The Hon. JOHN TINGLE: My question without notice is addressed to the Treasurer. Is the Treasurer aware of yesterday's comments by the Federal Treasurer about the international economy and, in particular, his expressed hope that the world might have to depend on a Harry Potter-led recovery this Christmas, through sales of Harry Potter products? With Australia showing a growth rate that contradicts the economic downturns in Japan, Europe and the United States of America, and since the Federal Treasurer said that he might have to reduce his budget surplus next year because of this, can the Treasurer indicate whether a similar budget surplus reduction is likely to be necessary in New South Wales? If so, will the Treasurer also need to invoke the help of Harry Potter?

The Hon. MICHAEL EGAN: I thank the Hon. John Tingle for his question, a topical and important one. According to the latest Australian Bureau of Statistics figures for the financial year just ended, New South Wales notched up a growth rate of some 2.7 per cent, compared with the national growth rate of 1.9 per cent. The interesting thing is that since 1995 New South Wales has outperformed the national economy for five of those six years. We in New South Wales can be very pleased with that record.

I can also inform the Hon. John Tingle and the House that this year, for the sixth successive year in a row, we expect a budget surplus in New South Wales. Since records have been kept, there have been only seven budget surpluses in New South Wales. The Unsworth Government achieved one and the Greiner Government achieved one. Five so far have been achieved by the Carr Government, which, if I were not so modest, I would suggest has something to do with the Treasurer in the Carr Government. In addition to achieving five surplus budgets, something that no other government has ever been able to do, this year we confidently expect another surplus budget. I am hoping that the budget that I will be preparing for delivery on 28 May next year will also have a modest but reasonable surplus.

The Hon. Duncan Gay: Why can't you pay the nurses, and doctors as well? Your area health services are not paying their bills.

The Hon. MICHAEL EGAN: I have told the honourable member that if he has any information on that, I want to know about it, because I am insistent that government agencies pay their bills within a reasonable period. Give me the details and I will do something about it. If any agency is not paying its bills within reasonable times, I will expect the chief executive of those agencies to meet me in my office at 5.00 a.m. on the first Saturday of every month and explain why. It is true that Australia's economic performance throughout the 1990s has exceeded that of most OECD countries. I confidently expect that will continue. It is because of good economic decisions and hard economic reform that the Australian government in the Federal and State spheres has taken over a 20-year period—on both sides of the political fence. That has opened the Australian economy and made it more competitive and a lower cost economy. As a result we are also benefiting from lower interest rates.

We want to maintain that record of fiscal responsibility. Our financial position is better than it has ever been in the history of this State and that stands us in excellent stead to cope with whatever problems a world economic slowdown brings to Australia. We are in good shape to withstand that. Although one should not make predictions too far in advance, at this stage I am certainly very confident that we will not have to cut services or increase taxes in order to maintain the present level of service.

POLICE PHYSICAL COMPETENCY TESTS

The Hon. JENNIFER GARDINER: My question is to the Minister for Police. Further to your claim in the *Sydney Morning Herald* that 65 recruits of the Goulburn police academy are being retested for physical competency, are you aware that in recent weeks at least 173 female recruits resat their physical competency tests? How many recruits from each academy intake fail the physical competency tests, on average? How long is it before they are able to resit those tests?

The Hon. MICHAEL COSTA: I thought I had answered that question. However, it gives me another opportunity to ask the Opposition to apologise for constantly undermining the morale of these fine young men and women in the academy. Rather than asking questions about physical competency and attrition rates, why does the Opposition not seek to encourage the fine young men and women in the academy and the police force? It is an absurd question. People are encouraged to attend the training sessions organised by the Police Service. They are required to pass the tests and procedures required of them to become police officers. The Police Service does retest. It supports and provides all the encouragement that is required for these individuals to graduate as police officers, as opposed to the Opposition, which seeks to demoralise fine young Australians who are seeking to serve this community in the Police Service.

POLICE MINISTER'S ADVISORY COUNCIL

The Hon. JOHN HATZISTERGOS: My question without notice is to the Minister for Police. Can the Minister advise the House of the latest initiative to improve policing in New South Wales?

The Hon. MICHAEL COSTA: Today I am pleased to announce the formation of the Police Minister's Advisory Council to help the commissioner and me develop local solutions to local problems. Members of the council are the Commissioner of Police, Peter Ryan; the President of the Police Association of New South Wales, Ian Ball; the Chief Executive Officer of the New South Wales State Chamber of Commerce, Margy Osmond, representing all shopkeepers and shop owners who are concerned about crime; the Director-General of the Ministry for Police, Les Tree, a good bloke; former Deputy Commissioner of Police, Geoff Schuberg; the Mayor of Barraba, Shirley Faye Close, representing country New South Wales; and April Pham, President of the Management Committee of the Vietnamese Women's Association of New South Wales, a tireless worker in Cabramatta.

The council will also receive advice from the Director of the Bureau of Crime Statistics and Research, Don Weatherburn. The council will first meet in the week commencing 16 December. The date is yet to be finalised. This group of people are concerned about crime; they support the police and recognise that police have a tough job. They believe that the only way to solve local crime problems is to develop local solutions. That is what the Police Minister's Advisory Council is all about, and the terms of reference reflect that. It will consider community views on local policing, develop local crime prevention plans and consider the adequacy of police powers. The council will reflect community views about police on the beat and police deployments. It will consider new technologies that may be applicable to the service, from the use of fingerprint technology to how technology can be used to keep police out of the courts. I am pleased to announce this very historic structure, which will focus on the Carr Government's policy of providing local solutions to local problems.

This demonstrates once again that this Government continues to generate new and innovative ideas about policing—as opposed to those opposite, who have no policy, no idea and no future. This morning I asked my staff to search the Opposition web site again for some policies on policing. What did they find? Exactly what they found yesterday: nothing. The Opposition has no policies on policing. The Police Minister's Advisory Council will be an open and transparent body. It will allow the community to put forward its views—no matter what they are; even if they are critical—so that we may consider them in the interests of better front-line policing. Opposition members cannot even heckle me any longer; they have given up. They are a complete joke. They have no policies and no future.

POLICE MINISTER'S ADVISORY COUNCIL

The Hon. PETER BREEN: My question is directed to the Minister for Police. Can the Minister inform the House whether the new Police Minister's Advisory Council has the support of Commissioner Ryan? Is the Minister aware that Commissioner Ryan disbanded a similar board on his appointment as commissioner? Can the Minister explain why former Assistant Commissioner Geoff Schuberg, whom Commissioner Ryan sacked, is now a member of the new board?

The Hon. Charlie Lynn: Good question.

The Hon. MICHAEL COSTA: I think it is a reasonable question, and I thank the Hon. Peter Breen for it. No, this body is not similar to one that Commissioner Ryan disbanded after three meetings following his appointment as commissioner. It has a totally different structure. It reports to the Minister and works with the Minister. The commissioner certainly supports it. He was at the press conference when I announced the structure, and he made many positive comments about it. He looks forward to working with the council, and particularly with those members whose point of view is different from his. This Government listens to its critics. It is not afraid to do that or to take up good ideas suggested by its critics and include them in policy—as opposed to the lot opposite, who have no policy, no idea and no future.

The Hon. PETER BREEN: I ask a supplementary question. Will the new board be involved in police promotion in the same way as the old board was involved in that activity?

The Hon. MICHAEL COSTA: I must correct the Hon. Peter Breen: it is not a board, it is a council. It is an important difference. This council will not consider operational matters of the Police Service. That comes within the ambit of the police commissioner, in consultation with the Minister. Operational matters will be dealt with at that level. This council will develop policies—that strange phenomenon that those opposite have no idea about—to do with local policing matters and community consultation to ensure that front-line police are effective. Promotions will be handled by the police commissioner in the normal manner and in accordance with the legislation that I hope will be passed by Parliament next week.

POLICE NUMBERS

The Hon. GREG PEARCE: My question is directed to the Minister for Police. Considering the Minister's claim earlier this week, which he repeated today, that police strength in New South Wales stands at 13,700 sworn offices, can he explain why he has misled Parliament, given that the police strength statement for October shows actual police numbers at 13,545—with no graduates expected to leave the police academy before 21 December—making the total number of officers, after accounting for separations, fewer than 13,500? How can the public have confidence in the Minister's statements when he cannot get the figures right and deliberately cites out-of-date figures when he knows the true figures?

The Hon. MICHAEL COSTA: My comments in this House in relation to police numbers are completely accurate. On 31 August 2001 there were a record 13,712 police officers. I thank the Treasurer for his record budget of $1.6 billion.

The Hon. Michael Egan: I suppose you'll want more money next year too.

The Hon. MICHAEL COSTA: Yes, I will want more money next year for more police. As the Government has indicated, we will have a police force of approximately 14,400 police officers in December 2003. We are well on our way to reaching that target. The Hon. Greg Pearce knows that individual monthly numbers fluctuate. He did not ask what the numbers will be in December because he knows that another 400 police will graduate from the academy this month.

The Hon. Michael Egan: This month?

The Hon. MICHAEL COSTA: Yes. This month we will have approximately 400 additional police. I wonder whether the Hon. Greg Pearce will question me again at the end of the month. Of course he will not. Opposition members want only to play games with police numbers. They are not interested in effective policing. They criticise the fine young men and women going through the academy. They call the graduates failures but they are not failures. Members opposite are a complete disgrace. Our police numbers are at record levels; that is an indisputable fact. No amount of distortion by the Opposition will change the fact that we have record police numbers in this State. Opposition members are a joke: they have no policy, no ideas and no future.

The Hon. GREG PEARCE: I ask a supplementary question. Why did the Minister again today cite August 2001 police strength figures to support his misleading statements when the true figures for October, which give the lie to his statements, are available? Indeed, I can show the Minister the figures for September, which also reveal that police strength is well below the Minister's repeated lies in this House.

The Hon. MICHAEL COSTA: I will make the position clear once again so that the Hon. Greg Pearce can understand it. As at 31 August 2001 there were 13,712 police officers in this State. That was a record, thanks to the budget given to us by the Treasurer.

The PRESIDENT: Order! I call the Hon. Greg Pearce to order.

The Hon. Michael Egan: Do you mean to say that record is going to be surpassed?

The Hon. MICHAEL COSTA: Absolutely. At the end of this month we will have approximately 400 additional police officers in the service. That will be another record. Those opposite have no policy, no idea and no future

[*Questions without notice interrupted*.]

DISTINGUISHED VISITORS

The PRESIDENT: I welcome to the President's Gallery Mr Geof Mitchell, Clerk of the House of Assembly of the Parliament of South Australia for the past 22 years.

QUESTIONS WITHOUT NOTICE

[*Questions without notice resumed*.]

GRAFFITI SOLUTIONS PROGRAM

The Hon. IAN WEST: My question is directed to the Minister for Juvenile Justice. Can the Minister advise the House of new developments in the Government's campaign to clean up graffiti?

The Hon. CARMEL TEBBUTT: As I have reported to the House on a number of occasions, graffiti causes great concern and angst in the community, particularly when it remains year after year. The Government made a significant commitment sometime ago to clean up graffiti. Last year under the Graffiti Solutions Program the Government made a commitment to establish, in partnership with local councils, 16 clean-up teams to tackle the blight of graffiti on our urban environment. This is only one part of the Government's overall approach to cleaning up graffiti, but it is an important part as it is targeted and provides a rapid response. That is very important because the sooner graffiti is cleaned up, the less likely it is to reappear. If graffiti is removed every week from sites that are tagged continually, those responsible for the graffiti will eventually give up.

Under the program small, closely supervised teams of young offenders serving community service orders work hand-in-hand with local government officers who identify clean-up needs. Earlier this year I reported on the success in meeting that commitment. I referred to praise the Department of Juvenile Justice had received from councils and residents who were appreciative of the work. Today I am pleased to report further success. The total number of local councils now in partnership with the department under the program has risen to 20. The latest two councils to sign up are Wyong and Camden. They join other councils with which the department has established partnerships, including: Blacktown, Penrith, the Blue Mountains, Wollongong, Newcastle, Campbelltown, Leichhardt, Woollahra, Maitland, Shellharbour, Fairfield, Wagga Wagga, Gosford, Dubbo, Griffith, Ryde, Randwick and Lake Macquarie. This shows that the project has statewide reach.

Also, four teams operate on specially targeted clean-up projects at the West Pymble Scout facility, Cobham Children's Court, the Sutherland Police and Citizens Youth Club and the South Coogee estate of the Department of Housing. The West Pymble task has been described as one of the biggest single graffiti removal projects ever undertaken in New South Wales. At this site, in a beautiful park setting, four buildings have been heavily daubed over a long period of time. Much of the graffiti contains obscenities. The work here is taking six months and using hundreds of hours of community service orders. Not only does the community benefit from the removal of graffiti, the young people involved in the clean-up teams have the opportunity to give back to the community and make reparation for their offending behaviour. It is often a useful process and part of their rehabilitation to turn their life of crime around.

At South Coogee work is about to start this weekend on graffiti that badly scars dozens of home units. This clean-up is being carried out in conjunction with the Department of Housing and Randwick City Council. The organisers are also using some lateral thinking. They have set up an aerosol arts mural on the site to give local graffiti exponents a legal outlet for their urges. Two weeks ago the Department of Juvenile Justice, with the Department of Corrective Services, ran a workshop on best practice approaches to graffiti prevention and remediation. About 50 representatives of local government, community-based organisations and local action groups attended. I am told it was a much-appreciated and valuable exercise resulting in much information sharing. The total number of hours spent by Juvenile Justice teams in graffiti clean-up since the start of the 2000-01 financial year had reached about 22,000 hours by the end of October. This includes 6,000 hours performed in the first four months of the current financial year. That proves that the graffiti clean-up scheme is highly successful and is enhancing our suburbs and meeting community needs.

WOMEN IN PRISON

The Hon. Dr PETER WONG: My question without notice is directed to the Treasurer, on behalf of the Special Minister of State, representing the Minister for Corrective Services. Is the Minister aware that the number of women in New South Wales prisons has dramatically increased by two-thirds since 1995 and that the majority of them are low risk prisoners serving sentences of less than six months? Why is the Government planning to increase its women prison population when other States in Australia, as well as the United States of America and England, are looking to reduce their women prison numbers? Why is the Government not seeking to build smaller detention centres and reduce its prison population through developing alternative rehabilitation programs? Is the Government concerned that the Hon. Alan Jones may not approve of alternatives to prison?

The Hon. MICHAEL EGAN: I would have thought that the Government's position on that matter had been well canvassed over a long period of time by Ministers for Corrective Services.

Mrs ADRIENNE RYAN HAND GUN POSSESSION ALLEGATION

The Hon. JOHN RYAN: My question is to the Minister for Police. I refer the Minister to a question that was asked by the Hon. David Oldfield of the Treasurer on 13 November about an allegation that Mrs Adrienne Ryan, wife of police commissioner Ryan, was in possession of a firearm in a suburban street. Can the Minister inform the House whether this allegation has been taken seriously and is it the subject of an investigation?

The Hon. MICHAEL COSTA: I do not have any information on that matter. I will take it up with the appropriate people to see whether there is any substance to the allegation. It is not an issue that I have any knowledge of.

OLYMPIC VOLUNTEERS TRIBUTE

The Hon. RON DYER: I ask the Treasurer, and Minister for State Development a question without notice. Does the Treasurer have any plans to commemorate the roles played by volunteers in the Sydney 2000 Olympics and Paralympics?

The Hon. MICHAEL EGAN: The answer to the question is yes. The government, as I announced in the budget in May, will build a permanent tribute to the 55,000 accredited Olympic and Paralympic volunteers who were largely responsible for making the 2000 Olympic Games so successful. A 2,000 square metre segment of Olympic Plaza at Sydney Olympic Park will be set aside for construction of a forest of more than 500 pole and post structures in dozens of shapes, sizes and colours. This will be a "forest of memories" of the Games. The designer, Tony Caro, has come up with a very exciting concept—certainly much more exciting than my original idea of an honour wall of names—that not only will enable us to record the name of every Games volunteer but will provide a huge array of information in an entertaining and attractive way.

The volunteers' hard work and good humour made all the difference to the Sydney Games. They made it a great event, and every one of them deserves to be applauded and recognised. This V-shaped arrangement of poles will recognise the contribution that the volunteers made and will be a focal point for visitors as they walk from the railway station to any of the major venues. The poles will also include interactive ways for visitors to relive the great moments of the Olympics and Paralympics. The design concept will be finalised later this year, with the project being completed by mid-2002. As soon as possible all the volunteers who worked on the Olympics and Paralympics should check that their names are on file and that the spellings of their names are correct.

The Hon. John Ryan was one of those volunteers, and I am told by people who came across him at the Games that he did an absolutely superb job. I want the honourable member to check on web site www.sydneyolympicpark.nsw.gov.au that his name is listed and is properly spelt. I am sure that this tribute to the volunteers will prove as popular as the relocated cauldron, which features the names of all the medal-winning athletes. We said we would remember the volunteers, and we are keeping that promise. Along the path on the western side of Sydney Olympic Park near the cauldron is a set of lights in the ground that measures the stride and speed of Cathy Freeman in her 400 metre race. The last time I saw the feature it had been vandalised; I hope it has been rectified. Anyone can challenge Cathy Freeman's feat at the Olympics on that great night—probably the most unforgettable night of my life.

RAIL INFRASTRUCTURE

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My question is to the Treasurer, representing the Minister for Planning. With the announcement of 130,000 new homes in Sydney, where and when will the rail infrastructure be built to prevent car dependency? Will the Minister continue to allow developments miles from the railway lines, such as at Pitt Town, while land remains vacant at Vineyard and Schofields?

The Hon. MICHAEL EGAN: I realise that sometimes things do not immediately come to the attention of the Hon. Dr Arthur Chesterfield-Evans, but I would advise him to consult my budget papers in recent years and acquaint himself with the huge investment the New South Wales Government is making in public transport, particularly in rail and bus transitways.

TAFE ADMINISTRATION CHARGES

The Hon. PATRICIA FORSYTHE: My question without notice is to the Minister for Police, representing the Minister for Education and Training. In view of the Treasurer's comments today about the so-called strength of the New South Wales economy, how does the Government justify the decision to increase TAFE administration charges for most students by 10 per cent? As this is way beyond the current consumer price index increase, does it break the 1995 promise by Bob Carr to "restrain increases"?

The Hon. MICHAEL COSTA: I will take that question on notice and obtain some information from the relevant Minister and report back to the House.

GOVERNMENT TRAVEL WEB SITES

The Hon. JAN BURNSWOODS: My question without notice is to the Treasurer, and Minister for State Development. Will the Treasurer please update the House on the Government's new travel web sites. I understand it has something to do with luring Germans.

The Hon. MICHAEL EGAN: I am not quite sure about luring Germans, but, as I have previously informed the House, the New South Wales Government has launched a $15 million tourism strategy in response to the challenges posed by recent global events and the domestic aviation situation. I am pleased to announce the

New South Wales Government's roll out of international travel web sites. I think the new web sites are a wonderful resource for visitors to New South Wales. They feature intralinks to each region in New South Wales, listing ways to travel, things to see and do, where to stay and upcoming events. The market-specific web sites are now available for travellers in Singapore, Hong Kong, the United States of America, China, Japan, the United Kingdom and New Zealand. Sites for France, Italy and Korea are to be launched early next year. Each site has relevant language options and they can all be found at the one web address, *www.sydneyaustralia.com*.

The Hon. Dr Brian Pezzutti: He must have bought a computer recently. He has started to talk like an expert.

The Hon. MICHAEL EGAN: I do not want to give any false impressions. Germany is the eighth and latest market to be incorporated into the web site. People in long-haul markets such as Germany may be uncertain about travelling in the current circumstances, but this web site provides an opportunity to promote Sydney, and indeed Australia, as a safe, desirable and good value destination. In other words, the Hon. Jan Burnswoods summed it up very succinctly, to lure German tourists to Australia, and to New South Wales and Sydney.

The Hon. Dr Brian Pezzutti: The Hon. Jan Burnswoods will frighten them away again.

The Hon. MICHAEL EGAN: I think she has come up with the right phrase. It is very important to be able to explain things succinctly. I think the Hon. Jan Burnswoods, by the use of one word, has described what I have taken a minute or two to explain. Germans are also very generous spenders, averaging $2,485 per visitor last year. That means almost $250 million was spent by 100,000 German visitors to New South Wales. The new web site is a perfect communication vehicle to reach such a prosperous and educated market. The web site is a wonderful showcase of New South Wales and is yet another Government initiative assisting the New South Wales tourism industry. There was no tourism web site when this mob opposite were in Government. They had no web site and no tourism policy. They have nothing at all, absolutely nothing! They should be ashamed of themselves. No wonder they are sitting there, contemplating a quiet retirement. Why don't you do some work for once? Try to release some policies. Come up with some ideas.

AUSTRALIAN DEFENCE INDUSTRIES SITE HERITAGE LISTING

The Hon. IAN COHEN: My question without notice is to the Treasurer, representing the Minister for Planning. Given that the Prime Minister has stated that the Commonwealth Government will protect all the heritage listed land on the Australian Defence Industries site at St Marys, totalling some 828 hectares of the 1,538 hectare site, will the Minister direct that State Regional Environmental Plan [SREP] 30 be comprehensively reviewed, as it provides for up to 250 hectares of the heritage listed area to be bulldozed for development as a new housing estate? Will the Minister agree to ensure that, unlike in the past, genuine and adequate public consultation will be held on the review of SREP 30, including a formal public submission process?

The Hon. MICHAEL EGAN: I will refer the honourable member's question to my colleague the Minister for Planning and obtain a response.

PASTORAL AND RURAL CRIME REPORT

The Hon. DOUG MOPPETT: I wish to address my question to the Minister for Police. When will the Minister release the report of the ministerial working party on pastoral and rural crime, considering that it is now 14 months since that group delivered its recommendations on policy and legislative changes to the Minister's now disgraced predecessor? Will the position of Rural Crime Investigator, which it has been said will look after issues including stock theft, be afforded additional officers, or will there simply be a reallocation of existing resources?

The Hon. Patricia Forsythe: You need a House folder. Why don't you get one.

The Hon. MICHAEL COSTA: I do not need a House folder to deal with you people. It is too easy. I answered this question about a week ago. I indicated that we were reviewing the recommendations and that there would be some movement on that matter early next year.

ESTUARY GENERAL COMMERCIAL FISHERY

The Hon. PETER PRIMROSE: My question is directed to the Minister for Fisheries. What action has been taken to better protect the sustainability of commercial fishing and the aquatic environment in our State's estuaries?

The Hon. EDDIE OBEID: I commend my colleague the Hon. Peter Primrose for his interest in the management of the State's estuary general commercial fishery. In December last year the Carr Government made a number of important changes to the way our fisheries are managed. These changes included making sure commercial fishing is sustainable. New South Wales Fisheries is now developing management strategies for each of the State's major commercial fisheries. It is also developing these strategies for the charter boat fishery, recreational fishing and our freshwater fish stocking and beach safety meshing programs. These are being prepared to a standard set by Planning New South Wales. New South Wales Fisheries is already in the process of developing these environmental impact statements [EISs]. The first commercial fishery to be investigated is the estuary general fishery.

Last month, New South Wales Fisheries asked the community to comment on the draft strategy that was being prepared in partnership with the Estuary General Management Advisory Committee. In developing the draft strategy New South Wales Fisheries has consulted widely with our State's estuary commercial fishers, anglers and indigenous fishers. It has also worked with my ministerial advisory councils on conservation, commercial and recreational fishing, and the Fisheries Resource Conservation and Assessment Council. The community now has the opportunity to have its say about a number of proposals and a range of management options. Some of the proposals include changes in fishing gear and new controls on the way commercial fishers harvest their catch. The draft EIS released by New South Wales Fisheries also includes a code of conduct to ensure fishers operate to specific standards.

It deals with ways to improve the mandatory catch reporting system and sets greater deterrents for illegal fishing. The community has until 18 January next year to comment on the draft strategy. It can be viewed at all coastal offices of New South Wales Fisheries. It is also available at offices of Planning New South Wales and the New South Wales Government Information Service. It can also be seen at local council offices in Sydney and along the coast. Like all New South Wales Fisheries documents released for community comment, it is also available on the New South Wales Fisheries web site. How we manage our fisheries resource is a matter that concerns the whole community. I encourage everyone, including the Coalition spokesman, to have a say about the proposals raised in the environmental impact statement for the estuary general fishery.

MULTIPLE CHEMICAL SENSITIVITY

The Hon. ALAN CORBETT: My question is addressed to the Treasurer, representing the Minister for Health. Is the Minister aware of the intense frustration that many people with a chemical injury or sensitivity experience as a result of the poor or non-existent state of knowledge by doctors and others of their symptoms? What steps is the Minister taking to ensure that these people are treated with understanding, care and compassion by knowledgeable New South Wales health care practitioners?

The Hon. MICHAEL EGAN: I would not be aware of the matter but for the diligent efforts of the Hon. Alan Corbett, who has taken up this matter over recent months. I will refer the question to my colleague the Minister for Health and obtain a response.

GANG AND ORGANISED CRIME STRIKE FORCE

The Hon. DON HARWIN: Does the Minister for Police recall his statement yesterday concerning the establishment early next year of the Gang and Organised Crime Strike Force, which he indicated would comprise 52 to 54 detectives, to work against gang-related activity? Can the Minister now inform the House whether the detectives assigned to this strike force will be in uniform or in plain clothes?

The Hon. MICHAEL COSTA: I do not want to comment on that because it is an operational matter and it might impact—

The Hon. Rick Colless: You have no idea.

The Hon. MICHAEL COSTA: I have got a very clear idea but I am not going to tell you because it is an operational matter that might impact on the effectiveness of the task force.

The Hon. MICHAEL EGAN: In view of the time, if honourable members have further questions, they might like to place them on notice.

DEPARTMENT FOR WOMEN WEB SITE

The Hon. CARMEL TEBBUTT: On 13 November the Hon. Helen Sham-Ho asked me a question about Women's Gateway New South Wales. The Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women has provided the following response:

The Women's Gateway has been publicised to women from culturally and linguistically diverse backgrounds through a number of means such as networks, demonstrations, publicity in newsletters and other promotion.

The Women's Gateway has been promoted through the use of existing networks including:

- Peak women's organisations such as: Asian Women at Work; Ethnic Communities Council; Hellenic-Cypriot Women of Australia; Immigrant Women's Speakout Association of NSW; Indonesian-Australian Women's Association; National Council of Jewish Women of Australia (NSW); Pan Pacific South East Asia Women's Association; Serbian Welfare Association of Women's Health; United Muslim Women's Association Inc and the Vietnamese Women's Association.

- The Women's Information and Referral Service Key Reference Referral Group which includes organisations who work with or who have programs specifically for culturally diverse women such as: Asian Women at Work; Fairfield Immigrant Women's Health Centre; Immigrant Women's Speakout Association of NSW; Inner West Migrant Resource Centre; Leichhardt Women's Health Centre; Liverpool Women's Resource Centre; Women and Girls' Emergency Centre; Women's Legal Resources Centre and Women's Health NSW. The Key Reference Referral Group provides a regular opportunity for advice and feedback on how well the Gateway is meeting the needs of user groups.

The Women's Gateway has been demonstrated and promoted at a number of outreach events and activities for women of culturally diverse backgrounds. These have included:

- A meeting of the Australian Council of Women's Affairs at Fairfield, which was a gathering of Muslim Women;

- Asian Women at Work Information Evenings in Surry Hills and Cabramatta;

- Law Week Launch of Family Law brochures in Community Languages at Fairfield; and

- Demonstration of the Women's Gateway during the Department for Women's Women on Wheels tour of Western NSW. This outreach enabled the Department to promote the Women's Gateway to isolated migrant women in areas such as Broken Hill and Lightning Ridge.

The Women's Gateway has featured in many newsletters and other print media.

- Featured in each edition of Womenspace in 2001. Nearly 5000 organisations and individuals receive Womenspace.

- The Women's Gateway has been heavily promoted through local newspapers in metropolitan, regional and rural areas.

Alternatively NSW women can contact the Women's Information and Referral Service (WIRS) on a free call number. WIRS enables women to access more than 4000 services for help with issues such as childcare, domestic violence, legal advice and health by making a single free phone call. WIRS is accessible to culturally diverse women. The languages spoken by the staff are Tagalog, French, Spanish, Hungarian, Ukrainian, Russian, Polish, Mandarin, Cantonese and Malay. A telephone interpreter can be arranged for those who speak languages not covered by the staff. The WIRS staff are able to provide callers with hard copies of any information available on the Women's Gateway.

Questions without notice concluded.

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

ASSENT TO BILLS

Assent to the following bill reported:

Crimes Amendment (Child Protection—Physical Mistreatment) Bill

CRIMES AMENDMENT (SELF-DEFENCE) BILL

INDUSTRIAL RELATIONS (ETHICAL CLOTHING TRADES) BILL

COURTS LEGISLATION AMENDMENT (CIVIL JURIES) BILL

COAL INDUSTRY BILL

Bills received.

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

Motion by the Hon. Eddie Obeid agreed to:

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

Bills read a first time.

TABLING OF PAPERS

The Hon. Eddie Obeid tabled, pursuant to the Annual Reports (Statutory Bodies) Act 1984, the annual report of the Rice Marketing Board for the year ended 30 June 2001.

Ordered to be printed.

PRINTING COMMITTEE

Report

The Hon. Ian West, as Chairman, tabled Report No. 5, dated 6 December 2001.

Ordered to be printed.

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

Report

The Hon. Peter Primrose, on behalf of the Chairman, tabled the report entitled "The Importance of Education for Children in Out-of-Home Care", dated December 2001.

Ordered to be printed.

ROAD TRANSPORT LEGISLATION AMENDMENT (HEAVY VEHICLE REGISTRATION CHARGES AND MOTOR VEHICLE TAX) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. CHARLIE LYNN [2.36 p.m.]: Although the bill retains the safeguards that farmers will pay no more in national charges than they would have in New South Wales motor vehicle tax, since the motor vehicle tax is automatically indexed by the consumer price index [CPI], a national registration charge needs to deal more fairly with low distance users. The former Victorian Government, under Premier Jeff Kennett, was proactive in finding a solution to this problem. That Government implemented a system whereby primary producers were provided with a 50 to 80 per cent discount on the national charge, depending on the type of heavy vehicle. The fairness of the system can also be called into question for the more frequent users of heavy vehicles of the road, such as trucking operators. For one, the ongoing and automatic increases that are a by-product of indexation are far from certain to reflect the changes in road maintenance costs. CPI adjustments do not, after all, necessarily cause a commensurate increase in road maintenance costs.

An increase in registration fees without a commensurate increase in road maintenance costs leaves the Government open to charges of blatant revenue raising. We do not have any sort of guarantee from the Carr Government that the increased revenue it will receive at the expense of trucking operators will even be reinvested in the maintenance of New South Wales roads. More likely it will just end up adding to the vast pool of money lining government coffers. We certainly can find no comfort in the Carr Government's past record in road maintenance spending. This year the Minister for Roads announced a maintenance budget that actually cut funding to roads. In real terms, when inflation was taken into account, the Government slashed $14 million off the budget.

Why then should we believe that the Government increase maintenance funding for roads this time? Just as the trucking industry will suffer from the indexation of charges, so too will the communities of rural and regional New South Wales. Those communities rely to a large extent on the trucking movements as a vital supply and distribution link. Last year, in debate on the introduction of indexation to heavy vehicle registration charges, the shadow Minister quoted the remarks of the president of the Australian Land Transport Association regarding the importance of blocking such an introduction. Those comments are appropriate to this bill. He said:

> The proposal to index truck registration charge variations in line with the CPI is being opposed by the Australian Land Transport Association (ALTA) on the grounds it will seriously affect regional Australia. People and industries in regional Australia will be hit very hard by a proposal to index truck registration charges if it is given the green light …

> Regional Australia depends on road transport and it will bear the full brunt of city-oriented ministers looking to slug the road transport industry.
>
> Regional and rural Australia needs solid help.

The road transport industry is of immense importance, particularly to the rural and regional areas of New South Wales that are dependent on road transport. Voters in rural and regional parts of the State would be extremely disappointed to know that members of the so-called Country Labor faction, including the honourable member for Murray-Darling, voted to increase charges last year and barely 18 months later they are jumping up and down in anticipation of increasing them again. Indexation will deal heavy vehicle operators throughout New South Wales a savage blow yet again. When I say "yet again" I remind honourable members that trucking operators were targeted by this Government only last year. On that occasion the Minister for Roads imposed new charges on heavy vehicle operators in the form of increased registration fees. Last year's charges did not apply to all heavy vehicles; however, for those that were affected, that rise in registration fees was most significant.

For instance, the charge for B-double combinations rose by $1,000 and for six-axle truck-trailer combinations by $1,850. A new charge for cherry pickers, mobile cranes, concrete pumps and the like was also levied, whereas previously the owners of such equipment were not required to pay a fee. In fact, it is estimated that these charges cost operators between 1.4 per cent and 2.1 per cent of total operating costs. The Minister failed heavy vehicle operators last year with the introduction of increased registration charges and he is failing the same people yet again with his desire to hit operators for a second time by indexation of these registration charges. Again the heavy vehicle operators and, in particular, primary producers and the trucking industry in New South Wales will be negatively impacted. One blow after another from this heartless Government!

I refer now to conditional registration. The Opposition will not oppose the bill on matters relating to uniform legislation concerning the introduction of a conditional registration scheme and general registration fees. However, I would like to take this opportunity to outline the concerns of the New South Wales Farmers Association with regard to the introduction of the conditional registration fee. The association has identified two major flaws with the conditional scheme. It stated:

> 1. The cost of third party insurance delivered as an integral part of the Unregistered Vehicle Permit has escalated from $24 per year in 1994 to $132 in 1999. The Motor Accidents Authority Compensation Act 1999 reduced the cost of greenslips—delivering nearly $100 in saving to motorists insuring a passenger vehicle in the city. The cost of a UVP for a farm plant remained at $132—a real increase in the circumstances.
>
> 2. There is an insurance gap because there are certain types of vehicles used in agricultural activities for which the farmer cannot obtain a UVP (for example an old army jeep permanently modified as a sprayer)—and as we understand it, will not be able to obtain a conditional registration. This leaves farmers whose properties are transected by a public road, or whose neighbours have right of way on their farm road, exposed to the risk of losing the property in the event that a third party claim against one of these vehicles is successful.

These concerns are of particular significance to many farmers and as such I ask that the Minister properly clarify his position on these issues. I would also like to convey a reminder from the New South Wales Farmers Association concerning an assurance it received from the Minister's office that the conditional registration scheme would not be implemented without further consultation in order that outstanding issues and deficiencies with the proposed scheme may be resolved. In summary, it is the responsibility of the Minister for Roads to defend the best interests of heavy vehicle operators in New South Wales. Unfortunately, he has failed to do this. By introducing the indexation of registration charges for heavy vehicles the Minister for Roads and the Government are hitting those vehicle operators where it hurts most, the hip pocket. The Carr Government is dealing a blow to the already tight profit margins of these people in a blatant attempt to satisfy its unappeasable appetite for more tax dollars at the expense of people in this State. I foreshadow that the Opposition will move an amendment in Committee relating to indexation charges.

The Hon. IAN COHEN [2.45 p.m.]: The Greens have major concerns about the heavy vehicle registration charges bill. Essentially, we oppose the bill but our concerns are different to those of the Opposition. I remind the House of the pressure to reduce vehicle registration charges that have been placed on successive Australian Labor Party and Coalition governments by the road transport industry. I shall quote from a statement by the spokesman for the influential Road Transport Forum, Mr Ron Finemore, when he addressed the 1992 Conference of the Chartered Institute of Transport about charges for six-axle articulated trucks. He said the vote by the ministerial council to accept the National Road Transport Commission's recommended national registration charge required considerable lobbying. He paid attention to how the New South Wales Government had opposed the NRTC charges and how they would one way or another get "the New South Wales government to fall into line".

It is now a matter of record that New South Wales did fall into line, at a cost of at least $50 million per year to the New South Wales taxpayer. New South Wales adopted uniform National Road Transport Commission charges in 1996. The first generation of NRTC charges saw New South Wales annual charges for a heavy six-axle semitrailer with 42.5 tonnes of legal gross mass halved from about $8,000 per year to just $4,000 per year whilst annual charges for B-doubles were slashed from over $14,000 per year to $5,500 per year. The NRTC charges were never indexed for inflation for the remainder of the 1990s and only recently were second generation charges introduced, with the provision for annual indexation, which is the subject of the present bill. Although the NRTC second generation charges were determined to start on 1 July 2000, the new charges retain many of the deficiencies in the old NRTC charges.

The main problem is significant underrecovery of road system costs from the heavier articulated trucks that haul long annual distances. There are several reasons for this. First, NRTC charges overrely on fuel taxation, which mostly goes to the Federal Government. Second, the annual charges are imposed in accordance with uniform rates across Australia. The charges for each type of articulated truck, by number of axles, are the same, irrespective of gross vehicle mass [GVM]. The main problem with this bill is that it does not sufficiently recognise the cost to the community of heavy vehicles. The owner of a heavy articulated truck with six axles with a GVM of 42.5 tonnes pays the same annual registration fee of about $4,400 as a light articulated truck with six axles with a GVM of 36 tonnes. This means that the owner of a truck that does as much road damage as 15,000 cars pays the same registration fee as the owner of a truck that does as much damage as 4,000 cars.

The obvious way of addressing this anomaly would be to have mass differentiation in the charges for heavy trucks, as there is with cars and station wagons, or as there was for heavy trucks in New South Wales up to 1996. However, if the Roads and Traffic Authority is arguing for a more equitable charging regime for heavy trucks it must be doing so behind closed doors because we have heard nothing about it. With a generous allocation of road funds each year and an open door to the road transport lobby, the Roads and Traffic Authority has consistently failed to recognise the need for equitable road pricing.

There is a further inequity in the bill. The owner of a six-axle articulated truck that travels 200,000 kilometres a year on interstate highways pays the same registration fee of about $4,400 as the owner of a truck that travels less than 20,000 kilometres a year making deliveries between Sydney's ports, intermodal rail freight yards and warehouses. The difference is not recovered in fuel taxes. The long-distance hauliers and their clients are being cross-subsidised. The net result is that those who have goods consigned by heavy articulated trucks hauling large distances annually receive large subsidies. A recent book entitled *Back on Track*, written by Professor Philip Laird of Wollongong University, Professor Peter Newman and Dr Jeffrey Kenworthy of Murdoch University in Perth, and a New Zealand author and town planner, Dr Mark Bachels, calculated a road system cost shortfall in 1997-98 of some $1,235 million for all articulated trucks in Australia. The same book found that the cost of road crash involvement by articulated trucks cost about $450 million and conservatively estimated the cost of noise and air pollution at $280 million. Therefore, the total hidden subsidy for this industry is about $2 billion per year.

Back on Track gives a 10-point plan for transport. In summary, it advocates that governments take stronger road safety measures, including shifting freight to rail; regulate to implement world's best practice new vehicle standards for reducing greenhouse gas emissions; make funding targeted to roads available to all transport modes; impose central business district fees and use the proceeds to improve urban public transport; ensure that congestion tolling is used in capital cities; increase the aggregate level of road cost recovery from heavy vehicles; improve the level of public debate on transport issues; create world's best practice urban public transport systems in major urban areas; reduce Federal taxation benefits for cars and give urban public transport tax benefits; and establish a national bureau of transportation statistics. The book also calls for the introduction of mass differentiation and distance differentiation in annual charges for all heavy trucks.

A recent major submission by the Bus Industry Confederation [BIC] to the Commonwealth fuel tax inquiry has also called for the recognition of transport externalities and the need for their pricing. The BIC submission, entitled "Getting the Prices Right: Policy for More Sustainable Fuel Taxation for Road Transport in Australia", estimated that air pollution from motor vehicles in Australia costs about $4.3 billion annually. The BIC estimated the cost of potential urban road traffic noise damage as ranging from $668 million to $1,878 million. That makes a total of nearly $5 billion for environmental externalities. The applicable BIC estimates regarding the operation of articulated trucks are $342 million for air pollution and between $82 million and $126 million for noise pollution, warranting an increase in fuel excise of at least 14 cents per litre for so-called "clean" diesel.

Basically, we need a more equitable charging regime with distance differentiation in annual charges. There is no reason why the overall annual charge system should not increase, with rebates for those truck

owners who are involved in local haulage. With today's technology, including the option of using Safe-T-Cam, verification of a claim for a rebate is possible but the political will is lacking. The least the New South Wales Government could do is make a commitment to examine the costs and benefits of a more sophisticated scheme and set targets for the aggregate level of road cost recovery from heavy vehicles.

The New South Wales Government also has a responsibility to work towards better road pricing outcomes from both the Federal Government and the National Road Transport Commission. Continued subsidisation of heavy truck operations sends the wrong pricing signals to companies seeking to transport large, or even moderate, tonnages of bulk materials over long distances. This encourages more loads on roads, with adverse road safety risks and environmental impacts. Cheap road pricing also discourages the use of other transportation methods, such as rail, sea or pipelines, which are safe and less polluting. The total cost of this mode of transport is avoided in debates such as this. For instance, we never add in the cost of accidents and subsequent medical and hospital charges. The Government would do well to encourage other modes of transport and increase taxation on "dirty" transport.

User-pays road pricing must also be supplemented by improvements in rail freight efficiency. After a decade of reform, rail freight deficits have been converted to aggregate rail freight profits. However, a national track audit released in May by the Australian Rail Track Corporation [ARTC] found that investment of $507 million is needed to make long overdue improvements in the mainline interstate track. Most of the work is needed in New South Wales. Due to neglect by this and previous governments, the Sydney to Melbourne and Sydney to Brisbane track received a damning "F" rating in the national infrastructure report card released in July. Massive highway subsidisation for heavy trucks clearly discourages private investment in rail track. If we do not fix this track in the manner recommended by the ARTC audit, Australia will see an extra 128,000 long-haul truck movements, mostly in New South Wales—or an extra 400 trucks a day along the Hume, Pacific and Newell highways.

Three years ago the much-vaunted "Action for Transport 2010" emphasised the importance of rail freight transport, and an official paper on New South Wales freight transport was promised. In December 2000 the inquiry into the privatisation of FreightCorp recommended that the New South Wales Government finalise and publish the 2010 freight strategy by 30 June 2001. Where is this report, which is now months—if not years—overdue? The New South Wales Government has much to answer for. The Minister must answer the following questions. Will the Government report within six months on the feasibility of mass differentiation and distance differentiation in annual charges for all heavy trucks and improve the level of road cost recovery from the heavier long-distance trucks? Will it release the 2010 freight strategy forthwith and implement the findings of the ARTC track audit? The Greens have significant concerns about this bill. We are worried about the trucking industry and the fact that it is prioritised over rail transport. I hope that the Minister, who has dual portfolio responsibilities for roads and transport, will examine this matter more closely and emphasise the efficiency of the rail option over the polluting and dangerous trucking industry in the State.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [2.57 p.m.]: I support the Road Transport Legislation Amendment (Heavy Vehicle Registration Charges and Motor Vehicle Tax) Bill, which implements nationwide uniform registration charges agreed to by the Australian Transport Council, a forum attended by Commonwealth, State, Territory and New Zealand Ministers, who consult and provide advice to governments on the co-ordination and integration of transport, roads and ports policy issues and other matters. The cost of heavy vehicle registration will increase initially by 3.3 per cent and there will be an annual indexed adjustment that must not exceed that of the charges calculated by the Australian Transport Council under the heavy vehicles agreement. This indexation will also be published in the *Government Gazette*.

A similar bill was passed last year. The Australian Democrats believe the damage that road freight causes to New South Wales roads justifies this increase and that charges must relate generally to the amount of damage done. This legislation is a step in the right direction, although it perhaps does not go far enough. I acknowledge the concerns of the New South Wales Farmers Federation, which the Hon. Charlie Lynn mentioned. However, if freight charges are inappropriately low, food will be trucked long distances and farmers situated close to markets may face unfair competition from farmers who enjoy climatic or geographical advantages. There would be high concentrations of food and a national dependence on long supply lines and heavy trucking. There are upsides and downsides. Although one could argue that cheap trucking advantages country areas and the agriculture industry, areas further from the cities might be favoured over those closer to the cities, which has other implications quite apart from the effect on greenhouse emissions and the enormous charges that must be transferred from elsewhere to maintain the road system. This bill could go further, but it is a step in the right direction.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [2.59 p.m.]: I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Schedule 1

The Hon. CHARLIE LYNN [3.01 p.m.]: I move the Opposition amendment:

Page 4, schedule 1, lines 6 to 32. Omit all words on those lines.

I outlined the reasons for the amendment during the second reading debate.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [3.01 p.m.]: The Government does not support the amendment moved by the Hon. Charlie Lynn. The purpose of the Opposition amendment is to omit proposed section 9, which provides the mechanism for periodic variation of the registration charges. Periodic adjustment to the charges is an appropriate strategy for the maintenance of the road infrastructure. Operators of heavy vehicles must recognise that the maintenance of that infrastructure is costly and is largely necessitated by the wear and tear caused by vehicle use. It is unreasonable to expect the operators of light vehicles, who cause significantly less damage to pavement and bridges, to subsidise heavy vehicle operators. Light vehicle taxation has been annually indexed for many years. To keep increasing light vehicle taxation while pegging heavy vehicle charges is unwarranted economic distortion.

The mechanism developed by the annual adjustment of heavy vehicle charges reflects the cost of road expenditure—the amount actually spent on roads, not some arbitrary economic inflator. The mechanism has the support of all Australian governments. It has been formally approved by vote of transport Ministers and enjoys the support of the Coalition Government in Canberra. But, unlike the legislation that the Commonwealth has circulated for vote by transport Ministers, this bill contains two important safeguards, which one would have thought would be welcomed by the trucking industry. The first of these safeguards is that, unlike the Commonwealth model, this bill cannot take anyone by surprise. The adjustments are not automatic. Every year the New South Wales Government has to bring in a regulation if it wants to vary the charges. Every year the Parliament can scrutinise that regulation and, in an extreme case, even disallow it.

The Commonwealth bill, on the other hand, does envisage that the National Road Transport Commission will publish the new charges each year, but it cannot guarantee that this will happen before 1 July each year, when the new rates come into force. The second important safeguard is that the New South Wales Government recognises that there may be exceptional circumstances where the nationally agreed increases are not appropriate in this State. In such a case, this bill will authorise the Government to impose a lesser charge. The Opposition amendment would deny to the trucking industry both of the safeguards and at the same time peg charges in a way that must, over time, lead to the deterioration of roads and bridges, with consequent threats not only to transport efficiency but to road safety itself.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 14

Mrs Forsythe	Mr M. I. Jones	Mr Ryan
Mr Gallacher	Mr Lynn	Mr Samios
Miss Gardiner	Mr Oldfield	*Tellers,*
Mr Gay	Mr Pearce	Mr Jobling
Mr Harwin	Dr Pezzutti	Mr Moppett

Noes, 25

Mr Breen	Mr Hatzistergos	Ms Tebbutt
Dr Burgmann	Mr R. S. L. Jones	Mr Tingle
Ms Burnswoods	Mr Macdonald	Mr Tsang
Dr Chesterfield-Evans	Mrs Nile	Mr West
Mr Cohen	Reverend Nile	Dr Wong
Mr Corbett	Mr Obeid	
Mr Costa	Ms Rhiannon	*Tellers,*
Mr Dyer	Ms Saffin	Ms Fazio
Mr Egan	Mrs Sham-Ho	Mr Primrose

Pair

Mr Colless	Mr Della Bosca

Question resolved in the negative.

Amendment negatived.

Schedule 1 agreed to.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee without amendment and passed through remaining stages.

GAMING MACHINES BILL

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [3.13 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The bill before the House marries the many pioneering measures the Carr Labor Government has initiated in this area since 1995—with a new and unprecedented set of reforms—into one comprehensive package.

The Gaming Machines Bill lays out a very clear strategy for gaming machine regulation into the future—and it confirms this State's elevation to the front rank of world gaming regulators.

But most importantly, in terms of its specific gambling harm minimisation measures, this legislation is undoubtedly the most substantial and most interventionist in the world.

On 26 July 2001, the Treasurer and the Minister for Gaming and Racing jointly announced the Government's plan for gaming reform in New South Wales. The key measures in the package are aimed at addressing community concerns about the increasing number of gaming machines in the community, and introducing further controls to reduce any harm associated with problem gambling.

Under the proposed legislation, the previous automatic entitlement of clubs and hotels to install gaming machines will be abolished. The current numbers of gaming machines will be frozen, and the only way that clubs and hotels will generally be able to acquire additional machines in future will be to purchase the right to keep those machines from other premises.

At the time of the announcement, it was noted that the development of a new scheme for transferable entitlements for gaming machines was such a significant reform that the Government was keen to involve key industry bodies in the development of that scheme.

Since the announcement, there has been extensive consultation and negotiation with Clubs New South Wales, AHA (New South Wales), Star City and various community representatives.

As a result of those discussions, some pragmatic changes have been made to the initial proposals, and some strengthened harm minimisation measures have been added.

The Government is satisfied that the resulting package of proposals represents a balanced approach to curtailing the growth of gaming machines in New South Wales, while at the same time ensuring that the hotel and club industries will not be driven into the ground, and are allowed to continue to trade profitably.

I would now like to turn to the detail of the legislation.

A new Gaming Machines Act

The bill before the House incorporates all of the existing controls over gaming machine operations in clubs and hotels, and adds the additional measures arising from the Government's gaming reform package.

Controls over gaming machines in clubs and hotels are presently spread over the Liquor Act 1982, the Liquor Regulation 1996, the Registered Clubs Act 1976 and the Registered Clubs Regulation 1996.

Prior to 1997, clubs could not operate approved amusement devices, and hotels could not operate poker machines. In 1997, the legislation was amended by cross-applying relevant provisions of the Registered Clubs Act to hotels, in respect of poker machines, and by cross-applying relevant provisions of the Liquor Act to registered clubs, in relation to AADs.

The overall legislation is complex, unwieldy, and incomprehensible to all but a few specialist lawyers. It is proposed to take this opportunity to transfer all gaming machine provisions relating to clubs and hotels from the Liquor and Registered Clubs Acts, and place them in a new Gaming Machines Act.

The new Act will also require a new Gaming Machines Regulation to be made, incorporating all of the current gaming machine related clauses under the Liquor and Registered Clubs Regulations, as well as new regulations required to give effect to the Gaming Machine Reform package.

The new Regulation will be made in accordance with the requirements of the Subordinate Legislation Act, which will mean that a Regulatory Impact Statement and draft regulation will be issued for public comment after the bill has received assent.

State-wide and venue limits for gaming machines in clubs and hotels

I would like to turn now to the details of the State-wide and venue limits for gaming machines in clubs and hotels.

The announcement of 26 July indicated that there would be an overall cap of 104,000 on the total number of gaming machines in clubs and hotels in New South Wales. The bill specifies that this limit is to be broken down into a cap of 25,980 gaming machines in hotels, and 78,020 in registered clubs.

The bill also specifies that the maximum number of gaming machines that can be kept by a single hotel is 30. The current restriction on poker machine numbers for hotels will be removed.

In line with the announcement, each club premises is to be limited to a maximum of 450 gaming machines. Clubs with more than 450 machines will be required to shed 10% of their machines over a five-year period, except where to do so would result in the club having fewer than 450 machines.

Transferable Entitlement Scheme

The key features of the transferable entitlement scheme are as follows:

Poker machine entitlements will be issued for all poker machines which clubs and hotels are entitled to keep as at the date of the relevant freeze—28 March 2000 for clubs, 19 April 2001 for hotels.

Clubs can sell their entitlements to other clubs, hotels can sell their entitlements to other hotels, but for every two entitlements sold, another one must be forfeited into a forfeiture pool.

Forfeiture will not be required if a club or hotel is moving to a new venue within 1 kilometre. If a hotel licence or a club is moved to a venue more than one kilometre away, then one entitlement will need to be forfeited for every 2 machines that are moved.

New clubs and existing clubs with less than 10 poker machines will be able to apply for up to 10 free entitlements. New clubs will include existing clubs that establish additional premises. The free entitlements will not be transferable for a period of 3 years.

AADs will not be able to be transferred to another hotel or club. However, hotels in metropolitan areas may apply for one poker machine entitlement in return for surrendering 3 AADs. Hotels in country areas may apply for one poker machine entitlement in return for surrendering 2 AADs. Poker machine entitlements exchanged in return for AADs will not be transferable for a period of 3 years.

Country hotels will only be permitted to transfer a maximum of two entitlements per year to metropolitan hotels - with another one required to be forfeited to the pool.

If a hotel or club licence is surrendered or cancelled, a period of 12 months will be allowed for all entitlements to be transferred to another hotel or club. After 12 months, any remaining entitlements will also be forfeited.

Representatives of the Australian Hotels Association of New South Wales have raised their concerns about the plight of small country hotels—that is, country hotels which currently have fewer than 9 gaming machines. They have indicated that there is a fear that these small country hotels will be seriously affected by the proposed new measures, to the extent that some may be forced out of business. The Association has also raised a concern that it will be very difficult in future for new hotels to be established in developing areas.

The Government has indicated to the Association that it will monitor the impact of the measures on small country hotels, and hotels in developing areas. The Association has sought further concessions for these hotels, and they have been informed that if any favourable consideration is to be given to these concessions in the future, that consideration will require a very clear business case to be provided by the Association, which clearly establishes that hotels in these categories are suffering serious difficulty as a direct result of the Government's gaming reform package.

Ownership rights

The hotel industry has expressed strong interest in which party or parties will have the beneficial ownership of the new poker machine entitlements.

It is not proposed to confer ownership rights through the legislation. Entitlements will be issued in respect of a particular hotel licence or certificate of registration. In the case of a hotel, the licensee will be permitted to apply for the transfer of entitlements to another licence, provided the licensee can satisfy the Board that the licence owner has consented.

Many hotel licences are owned by one party and leased to another under contracts that may last as long as 20 years. There is concern that lessors may attempt to force the lessee from the business, thereby allowing the lessor to take advantage of the poker machine entitlements that are issued in respect of the licence. The bill includes a savings provision to give protection for the existing contractual rights of lessees.

Hardship cases

The announcement of 26 July indicated that suitable transitional arrangements would be developed for hotels. The bill will allow hotels to apply for free entitlements under a new hardship scheme. Applications will be able to be submitted for hotels falling into one of four categories:

1. Hotels that had applied to install additional machines at the date of the announcement of the hotel freeze, that is 19 April 2001

2. Applicants for a new or removed hotel licence, where the application had obtained a conditional grant by 19 April 2001

3. Applicants who can establish that they had entered into a contract for significant building or refurbishment work prior to 19 April 2001

4. Other extreme cases of financial hardship.

Applications made under the fourth category will be required to demonstrate serious financial hardship unless the application is granted. Serious financial hardship will mean a significant financial loss to the business as a whole.

Clubs have been able to apply for additional machines under hardship provisions that formed part of the club gaming machine freeze which took effect on 28 March 2000. There are still some outstanding hardship applications that have been lodged under the present legislation, and new applications continue to be submitted each week. The current hardship provisions have not been interpreted as strictly as intended, and some 1600 additional gaming machines have been granted to clubs since the freeze commenced.

Any applications made since 26 July 2001 will be subject to new, more restrictive hardship requirements. Applications made before 26 July 2001, but not dealt with by the date of the commencement of the legislation, will still be subject to the current law, but will have to be determined within 3 months of the commencement of the legislation if new machines are to be granted.

Applications refused by the Board before 26 July 2001, but subsequently reconsidered and granted, will generally be deemed null and void. If the applicant wishes to bring new material to the attention of the Board for reconsideration, the application will be deemed to be a new application made after 26 July 2001. However, exemptions will be able to be made in exceptional circumstances.

Hardship entitlements granted to both clubs and hotels will not be transferable for a period of 3 years after the date that the entitlements were approved. If a club or hotel wishes to sell any of its standard poker machine entitlements within that three year period, it will be required to forfeit its hardship entitlements first.

The Board will not be permitted to allocate hardship entitlements unless there are sufficient forfeited entitlements in the relevant pool.

Social Impact Assessments

Currently, applications in relation to new clubs and hotels, or for additional gaming machines in clubs, must be accompanied by a social impact assessment [SIA]. The current SIA process does not apply to existing hotels that seek to enhance their gaming machine operations, or to hotels that seek to relocate within the same neighbourhood.

The announcement of 26 July indicated that the Government would extend the SIA process to existing hotels and to hotels that seek to move to another location in the same neighbourhood.

While all applications to increase gaming machine holdings are to be subject to social impact assessment in future, it is not intended that the process should be extremely onerous or expensive in cases where it could be expected that the social impact of the additional machines would be small.

It is proposed to establish a two-tiered SIA process with the following elements:

- SIAs will not be necessary whenever a liquor licence transfers from one party to another, as long as the number of machines at the premises does not increase, and the licence is not removed to another premises.

- SIAs will fall into two categories—Class 1 and Class 2. Class 1 SIAs will be required to provide basic information. Class 2 SIAs will require significantly more information, and will need to satisfy a net economic and social impact benefit test. Class 2 SIAs will also be required to satisfy prescribed consultation requirements.

- Class 1 SIAs will be required when the size of the increase proposed is less than a prescribed number, say, 5, over a three year period. Provision will be made to prescribe a different number for hotels and clubs, if required.

- Hotels and clubs will not be permitted to increase their machine holdings by more than the relevant prescribed number in a three year period without undergoing a Class 2 SIA.

- Class 2 SIAs will not be required when the increase in gaming machines is as a result of a transfer of entitlements from one venue to another within a radius of 1 kilometre of the original location. In those cases, Class 1 SIAs will be sufficient.

The Board will determine SIAs subject to any directions or guidelines that the Minister may issue from time to time.

In determining a Class 2 SIA, the Board must be satisfied that the net economic and social impact of approving additional gaming machines in the LGA will not be detrimental to the well being of the community in that area.
Other requirements for Class 1 and Class 2 SIAs will be prescribed in the Gaming Machines Regulation.

The 26 July announcement stated that tighter controls would be implemented to make it much harder for the development of "shopfront gambling dens" posing as hotels. It is proposed to adopt these tighter measures through the SIA process. For example, it has been proposed that the Board will be restricted in the number of additional machines that can be authorised under an SIA application, depending on the total floor space of the premises.

Amalgamation of Clubs

Amalgamations are to be limited to no more than 4 per club. The number of all original clubs are to be counted within this threshold—including all "child" clubs and "grand child" clubs, where applicable.

There will be an exception to the limit of 4 amalgamations per club where a club amalgamates with another club that is located within the same district. In the case of clubs in metropolitan areas, clubs will be able to amalgamate with other clubs within a radius of 1 kilometre without that amalgamation being counted towards the ceiling of 4. For non-metropolitan areas, clubs will be permitted to amalgamate with an unlimited number of clubs within a radius of 50 kilometres.

Clubs which already have amalgamated with more than 4 other clubs will be permitted to retain those amalgamations. Further, the limitation on 4 amalgamations is to be subject to an exception where clubs that have made firm commitments to amalgamate prior to the Government's announcement on 26 July 2001 will be able to do so, even if this entails more than 4 "child" clubs.

Other controls over amalgamations are to be introduced, aimed at preserving the assets of the "child" club, and ensuring that members of both clubs are fully informed of all relevant details before voting on the amalgamation.

Harm Minimisation Measures

The package announced on 26 July 2001 stated that gaming machine operations in clubs and hotels would be required to close down for 6 hours each day.

In the course of consultations over the details of the package, Clubs New South Wales and the AHA have presented persuasive arguments in relation to the impact of an immediate 6 hour daily closure on their operations.

The Government does not wish to put the jobs of club and hotel employees at risk, nor does it want to suddenly inconvenience club and hotel patrons who may need some time to adjust to the proposed trading hours.

At the same time, the Government has heard the views put forward by highly respected community representatives such as the Reverend Chester Carter from the New South Wales Council on Problem Gambling and the Reverend Harry Herbert from Uniting Church Care in relation to the importance of an extended shut down period for problem gamblers.

After having considered the arguments and proposals put forward by the industry associations and community groups, the Government still intends to pursue a mandatory standard 6-hour shutdown period for gaming machines in the long term.

However, it is now proposed to allow a phasing-in period from the commencement of the legislation until 30 April 2003, during which time clubs and hotels will be required to turn off their gaming machines for 3 hours each day, between the hours of 6 am and 9 am.

From 1 May 2003, the general shutdown period will be the full 6 hours from 4 am to 10 am. However, clubs and hotels will be permitted to apply to have the mandatory shutdown period on Saturdays, Sundays and public holidays reduced to the 3 hours from 6 am to 9 am.

Any clubs and hotels which seek to take advantage of this arrangement after 1 May 2003, and not close for the full 6 hour period on Saturdays, Sundays and public holidays, will be required to obtain the approval of the relevant local government authority, and will also be required to comply with additional harm minimisation measures as prescribed in the regulations.

Also, clubs and hotels that can satisfy the Liquor Administration Board that they had a history of trading as "early openers" prior to 1997 will be permitted to apply for a different 3 hour/6 hour closure period to the standard. Any alternative non-closure periods will have to be in line with their previous trading hours.

To be eligible for a variation of closure hours, each club and hotel will need to demonstrate that they were open for business before 10 am on at least one day of the week on a regular basis before 1 January 1997. This "early opener" variation will also be available under the three hour interim shutdown arrangements.

I would like to turn now to other harm minimisation measures included in the legislation.

Very significantly, the bill will prohibit all off-premises gaming machine related advertising. The prohibition is to extend to promotions conveyed by any medium, including radio, television, the Internet and any printed material such as newspapers, club journals, brochures, and posted material.

In addition to the ban on advertising, all signage and other material—for example, flashing lights and dollar signs, attached to the outside of clubs or hotels and the casino, or which may be seen from the outside of clubs or hotels or which is in the immediate vicinity of clubs and hotels, and which suggests the availability of gaming machine facilities, is to be banned.

This is a major reform—much of this signage is an eyesore and does not reflect well on the industries. People who want to play poker machines know where to go.

Prizes paid as part of player loyalty schemes or other gaming machine promotions will be limited to a maximum value of $1,000, and must be in the form of goods or services. Cash prizes will be prohibited.

Any venue which runs a player loyalty scheme will be required to provide player activity statements to individual players on a periodic basis.

The Department of Gaming and Racing has been directed to undertake a review of the general operation of player loyalty schemes. That review will commence in the new year, and will involve consultation with the major stakeholders, including Clubs New South Wales and the AHA.

In particular, the review will examine the option of requiring any player loyalty scheme to be extended to cover all transactions throughout a venue, and also whether it is appropriate to require that higher points be awarded for purchases on non-gaming goods and services than for gaming.

Returning now to the details of the bill, clubs, hotels and the casino will be required to establish formal links with a problem counselling service, and also to establish self-exclusion schemes.

Other Controls over Club and Hotel Gaming Machine Operations

I would now like to briefly run through some of the additional controls over club and hotel gaming machine operations.

It is proposed to add an additional sanction to the range of options available to the Licensing Court under complaint proceedings. The Court can presently cancel or suspend a club or hotel's liquor licence for complaint action taken in relation to gaming machine breaches, or impose a monetary penalty.

Given the level of community concern about problem gambling, it is appropriate to allow the court to impose sanctions that specifically target irresponsible conduct in relation to gaming machine operations. It is proposed to extend the range of sanctions available, by providing the Court with the power to suspend or cancel the club/hotel's entitlement to operate gaming machines.

The Productivity Commission in its report on Australia's gambling industries recognised that decisions that could have significant community-wide impacts should lie with the responsible Minister. The Commission gave the following matters as examples of the types of matters that should remain within the policy direction of the Minister:

- the increased liberalisation of gambling
- the forms of gambling which are acceptable
- harm minimisation and consumer protection policies.

There are some decisions which are currently being made by the Liquor Administration Board which can impact on or conflict with Government policy. For example, the Board currently has responsibility for setting the technical standards that control gaming machine design and functionality.

As there are clearly harm minimisation and consumer protection policies to be considered in the design of gaming machines, it is appropriate that the broad policy direction of these technical standards reside within the control of the relevant Minister.

The bill inserts a new provision to allow the Minister to issue directions and guidelines to the Board as to how the Board is to exercise the following functions:

- approving hardship applications
- approving social impact assessments
- approving technical standards
- approving particular models of gaming machines

Registered clubs, as community-based organisations, have a responsibility to ensure that their financial affairs are conducted in the best interests of their members, and that no individual profits from the operations of the clubs, other than by way of reasonable recompense for their employment or service as a director, or for expenses that are reasonably incurred.

Section 10 of the Registered Clubs Act imposes various controls over payments and benefits that can be given to members, staff and directors. One of those controls prohibits the payment to employees of an amount calculated by way of reference to the quantity of liquor sold.

The bill will insert a similar prohibition in relation to gaming machine operations. The bill will also amend section 10 to require clubs to disclose in their annual reports to members the value of the salary package and other benefits of the five highest paid employees who are earning more than $100,000.

Clubs will also be required to report on overseas visits undertaken by directors and employees with the main purposes highlighted and details of the cost of the trip. Details will also have to be provided of other persons travelling in the same party as the director or employee, whose costs are met by the club.

In addition, it is proposed to require clubs to publish their gross gaming profit from gaming machines, (that is, turnover minus prizes paid out), and the amounts allocated to Community Development and Support Expenditure.

There is also to be a requirement that club directors, secretaries and the five highest paid executives are to declare any financial interest that they may have in a licensed premises, such as a hotel or restaurant. Such interests are to be declared at the first board meeting after the commencement of the legislation, and recorded in the minutes. Any new interests by directors, secretaries or senior executives are to be declared at the first board meeting after the interest has been acquired.

The club is to report on all financial interests in licensed premises by its directors, secretaries and five highest paid executives in its annual report to members.

There have been reports that some clubs may be contemplating purchasing hotels, as a means of gaining access to additional gaming machines. This is contrary to the long-standing policy of both sides of Government to distinguish between the gaming privileges afforded to clubs and hotels, and it is not acceptable.

It is proposed to prohibit a registered club or the secretary of a registered club from having a financial interest in a hotel. Any existing interests are not to be affected by the new prohibition.

Because of the size and complexity of the new bill, there are a range of consequential amendments to the Liquor and Registered Clubs Acts and other Acts which are too numerous to recite.

The bill is comprehensive and extensive, in keeping with the public interest in having very clear and detailed controls over gaming machine operations in clubs and hotels. While much of the new bill represents a direct lift of existing controls from the Liquor and Registered Clubs Acts, there are also significant new measures in keeping with the Government's Gaming Reform package, as announced on 26 July 2001.

The bulk of the new measures can be found in Parts 2 and 3, and Divisions 1, 2 and 3 of Part 4 of the bill.

Finally, as honourable members would be aware, there is a national requirement to review legislation that restricts competition. The guiding principle of the National Competition Policy is that legislation should not restrict competition unless it can be demonstrated that:

the benefits of the restrictions to the community as a whole outweigh the costs, and
the objectives of the legislation can only be achieved by restricting competition

The Government's Gaming Reform Package was developed with these principles in mind.

In view of the harm caused by problem gambling, the Government is confident that there are substantial public benefits associated with the Gaming Machines Bill 2001, which is directed at harm minimisation.

The Government has incorporated a basic market-based approach as part of the new Package, in line with National Competition Policy principles. The transferable entitlement scheme uses the market to give clubs and hotels more flexibility.

The bill also simplifies and streamlines the regulatory structure concerning gaming machines, benefiting all involved as it will be a less complex system.

I commend the bill to the House.

The Hon. GREG PEARCE [3.14 p.m.]: I lead for the Opposition in this debate and indicate that the Opposition will not oppose the bill. However, members of the Opposition have some concerns about both the process of introducing this legislation and the extent of reform that is intended to be wrought by this bill. I note that when the soon-to-be-removed Minister for Gaming and Racing introduced the bill in the other House, he had the good grace to apologise for the length of time it has taken to introduce the bill into the Parliament. Unfortunately, he did not take the opportunity in his valedictory second reading speech to announce his retirement. The Minister apologised for the Government's tardiness in attending to the very important and pressing matter of gaming machines, which is in need of attention from the Government.

This legislation represents substantial reform of gaming in New South Wales and the Opposition is grateful for that. It repeals all legislation related to gaming matters and attempts to roll all the provisions into one bill. That is a very useful step forward. However, that action has been anticipated for a considerable time. In

response to community concerns, the Government initially announced a freeze on club poker machines on 28 March 2000 and that announcement was followed by a freeze on the poker machines installed in clubs and hotels on 19 April 2000. For a long time there has been a high level of disquiet in the community over the explosion in the extent of poker machine gambling in this State and over the reliance of the Government on gambling revenues to support the State budget.

The Hon. Richard Jones: The Government is addicted.

The Hon. GREG PEARCE: As the Hon. Richard Jones interjects, this Government is addicted to gaming and gambling revenues which produce the so-called surpluses that the Treasurer was so proudly trumpeting in question time today. The freeze on club and hotel poker machine numbers in April 2000 was followed by another public announcement on 26 June 2001—admittedly, a long time later—that the gaming reform package would be introduced. As a member of General Purpose Standing Committee No. 3, I inform the House that members of that committee thought that 26 June 2001 was quite an important day. That was the day the committee released the Cabramatta police report.

On the same day the Government chose to announce its gaming package with a view to trying to muddy the waters somewhat. I understand that the Government is keen to have the new legislation operating by 1 February 2002 and, given that that is the case, one would think that the Government could have introduced the package somewhat earlier than it has, to allow the Opposition and the community some time to deal with the legislation. As I mentioned, the legislation has been discussed since March 2000, and details have been announced on various occasions. However, this bill, which consists of almost 200 pages, was given to the Opposition as recently as a week or so ago and was introduced into Parliament a few days later.

That process did not provide the Opposition or the community with an opportunity to scrutinise the bill. That is consistent with the Opposition's experience of this Government's attitude and general approach to consultation and transparency in relation to the Parliament and the community generally. I will refer briefly to the report of the Productivity Commission of November 1999. Without going over old ground, I simply say that, as all honourable members in this House know, the Productivity Commission's report of November 1999 drew attention to the issue of problem gambling in this State and indeed throughout Australia. It was essentially the start of the debate, which has been a lengthy process, leading to the introduction of this reform package.

The Productivity Commission was very concerned about problem gambling in the community and, as a result, there was a great deal of discussion in regard to the need for harm minimisation and prevention measures. But concern was also expressed by the Productivity Commission in regard to the current regulatory environment. The Productivity Commission was very strong in its findings that the regulatory environment was deficient. Amongst other things, the Productivity Commission commented on the complexity of regulations, which were often fragmented and inconsistent, and the inadequate policy-making processes, which were exacerbated by the strong incentives for governments that derive their revenue from gambling industries not to deal with some of these issues.

These issues have been canvassed at some length on other occasions, by the media and by many other speakers to this legislation. One of the key features of the legislation clearly is to lock into place the cap on poker machine numbers. I believe there is a level of acceptance that the taxation environment will remain stable for three years, based on the number of gaming machines capped at 104,000, of which the cap is 78,020 in clubs and 29,980 in hotels. With regard to the further detail contained in the legislation of clubs being capped at 450 machines, and the requirement for those clubs with more than 450 machines to shed 10 per cent over the next five years, I accept that there are various exceptions. Hotels, of course, retain their current cap of 30 machines. The restrictions that applied to the number of poker machines in hotels that can be kept within the cap of 30 is removed. That is progress, and the Opposition is pleased about it.

As has been expressed by members of this House on many other occasions, the gaming industry is an important contributor to life in New South Wales. I saw the recent annual report of the Department of Gaming and Racing and, for the record, I note that in New South Wales there are 1,391 registered clubs which have more than 74,000 gaming machines, that more than $400 million is collected in duty, that the turnover from gaming machines as at 31 May 2001 was $27 billion, and that the assessed profit from gaming machines as at 31 May 2001 was $2.8 billion.

The gambling industry is a very significant industry in New South Wales. It provides employment, is an important source of revenue for government and provides social enjoyment for many people in the

community. The Opposition is concerned about the extent to which the New South Wales Government links its revenue generation and revenue expectations with the gambling industry. On a number of occasions the Opposition has expressed reservations about the structure of gaming in this State, where the Treasurer effectively wears two hats. He wears one hat as tax collector and, to the extent that there is any social conscience, the Treasurer has to wear that hat as well. The Opposition continues to have concerns that the roles of revenue collector and the member of the Government responsible to argue for the social conscience of the community should not be the same person.

Unfortunately, this legislation does nothing about that contradiction in the two roles and the real conflict of interest between Treasury, which is interested in its revenue flows, and the community, which is interested in harm minimisation, and the difficulties associated with a quite significant gaming regime. Related to that are the Opposition's concerns about the past activities of the Government, in particular the Minister, in reducing the resources and capacity of the Department of Gaming and Racing to undertake its role in relation to compliance. The department has been continually gutted and its resources and funding have been reduced over the last year, to the point where the compliance division of the department has been halved. There are limited resources in the field and, therefore, a lack of accountability for what is happening in New South Wales.

Similarly, much greater demands have been placed on the Liquor Administration Board and the Licensing Court. They are both underresourced and understaffed, and the Minister has not done anything to attempt to deal with these problems: the lack of staff to attend to compliance matters and the backlogs that have developed in the courts. One issue that has particular weight in this area is the need to deal with social impact statements, which have been introduced into the process of applications for gaming machines by clubs and hotels. The concept of a social impact statement and the need to weigh up the impact of the introduction of new gambling facilities into communities is something that the Opposition supports.

However, the process is quite complicated and, as the Minister said when he introduced the legislation in the other House, this bill establishes a two-tiered social impact assessment process. The process essentially allows for two categories: one process that requires basic information, for example, in the case of machines being moved from premises that are in the same geographical area, and the more stringent process, class 2, that requires more information and the need to satisfy a net economic and social impact benefit test. There are concerns about the process—not only the capacity of the Licensing Court to deal with these matters and the experience and capacity of hotel and club managers and owners to prepare these statements and deal with them, but also the complexity of dealing with what frankly is a very difficult set of issues.

We need to keep an eye on the social impact assessment process to ensure that it delivers what we want of it; and also that it is capable of being seriously and properly administered to deliver those sorts of results. Amalgamation is an area of some controversy. The Minister announced that amalgamations are to be limited to no more than four per club. Whilst the Opposition does not object to that per se, there is still no evidence-based logic as to that limitation and there remains some gaps in the way that amalgamations can take place.

The Opposition has no problem with the provisions relating to hardship cases, but we will closely watch the operation of the provisions relating to amalgamation of clubs, particularly during the next 12 months. We do not understand the reason for the limitation of four amalgamations. There is still a long way to go with the trading of poker machine licences. The Government wants to avoid claims for damages and compensation resulting from the legislation. We will have to see what happens as we go down this new and complicated path involving potential proprietary rights with the opportunity to make significant revenue, with trading limitations applying in a market that did not previously exist.

We are concerned about the requirement to close down gaming operations for a certain period each day. When the Treasurer announced the package in July he stated that gaming machine operations in clubs would be required to close down for six hours each day. We have not been privy to the negotiations that took place after that announcement. Of course, the Opposition would not want to recklessly introduce provisions that would unnecessarily impact on the convenience of club and hotel patrons and the jobs of club and hotel employees. However, the Minister has announced that as a result of consultation over the details of the package since July he has decided to phase in the six-hour close-down period after the next State election. In the meantime there will be a three-hour mandatory close-down period.

It is unclear whether such measures will be of any use in harm minimisation or will lead to the sort of rush that occurred with the six o'clock swill by binge drinkers when there were restrictions on hotel opening hours. It may be possible for people to move to a different venue for the few hours that the club or hotel they are

gambling in has to close. That is another issue that the Opposition will closely watch. One of the useful measures in the bill that seems to be heading in the right direction relates to off-premises advertising of gaming machine activities. The Minister stated that all signage and other material suggesting the availability of gaming machine facilities attached to the outside of clubs and hotels and in the immediate vicinity of clubs and hotels will be banned. He referred in particular to flashing lights and dollar signs and his desire that licensed premises in New South Wales should not look like buildings in Las Vegas. People in New South Wales probably would be pleased to see the elimination of that type of eyesore.

Clubs, hotels and casinos will be required to establish formal links with a counselling service. The self-exclusion schemes that have been adopted have been of great credit, and they are encouraged by the bill. This is a positive and worthwhile aspect of the package. The legislation has a few quirks, as one might call them. One of these—I guess the jury is still out on it—relates to disclosure of the salary packages of, amongst others, secretary-managers of clubs. There is concern about whether the motivation is somewhat unsavoury or whether this requirement is really the right way to go. The bill obliges secretary-managers in some cases to disclose their income. This is a more onerous obligation than the obligation on directors under, for example, the Corporations Law. One cannot pass by this issue without noting with some concern that until a few days ago a Minister of the Crown had interests in hotels and benefited greatly from the Government's gaming legislation. But we have not seen that sort of disclosure from him. So one would have to be a little sceptical about that aspect of the bill, and somewhat disappointed to see the double standards that this Government continues to exhibit.

The bill does not deal with a number of important gaming issues that have been on the table for a long time. One is the central monitoring system, which I have spoken about on numerous other occasions in the House. I will not go over the issues again but the system is failing. It needs to be attended to, but it probably will not be attended to by the current Minister. I hope he will have packed his bags and gone by the time the new year dawns. If the Government finds someone on the back bench with enough talent to replace him, no doubt the new Minister will quickly get the central monitoring system up and running so that that issue is resolved. Overall, the Opposition continues to be greatly concerned that the reform of gaming legislation has not been transparent and inclusive. Instead, the Government has run along with its package of reforms. Obviously, what it has been able to do has been limited by self-interest, particularly the self-interest of the former Minister for Police.

Instead, the Government has come along with its package of reforms. Obviously, its actions have been limited by its self-interest, and the self-interest of the former Minister for Police. Rather than coming up with the gaming reform by way of a partnership with government, industry and the community, the Government and various elements of the industry have picked off the areas that they wanted to deal with and have ignored other areas. The Opposition is not so unrealistic that it ignores the fact that good gaming responsibility rests very much with individuals. In criticising the Government's efforts the Opposition does not ignore that point. However, the Government is gambling-based, it is addicted to gaming revenue.

The Government has been dominated by some individuals who have helped themselves to income from gambling. Therefore, it is very difficult to be confident that this legislation will deal with the serious issues identified by the Productivity Commission and by many others in the community who have had to deal with the social impacts of gaming. One reform that has been needed for a long time, and which the Opposition believes is absolutely essential, is the introduction of an independent gaming authority. The Government has not been prepared to consider that idea. The Government, notwithstanding its internal conflicts of interest and addiction to gambling revenue, cannot be excused for taking 20 months to introduce this bill.

The Minister for Racing and Gaming, in the valedictory stage of his time in Parliament, has finally introduced a reform and consolidation of gaming legislation. If the Government is serious, it will ensure that harm minimisation measures are given the support that they require and ensure that the courts and boards that are responsible for administering the legislation will have appropriate support by way of social impact statements and other difficult and novel measures that need to be adopted. The Government should be fair dinkum about this and introduce mandatory closure times. It should establish an independent gaming authority to remove temptation from Ministers such as the former Minister for Police.

The Hon. IAN COHEN [3.45 p.m.]: The Greens support the bill. While the Greens support any measures that help reduce gambling in our society we are disappointed that the Government has moved away from some of its original proposals. Clubs New South Wales and the Australian Hotels Association have lobbied hard to ensure that the Government has backed away from its original position. One might ask what was that position? The Government promised to require hotels and clubs to close their gambling facilities for six hours a

day. The legislation contains a phasing-in period. Hotels and clubs will be required to close their gaming machine facilities for three hours from 6.00 a.m. to 9.00 a.m. until 30 April 2003 and then for six hours per day from 4.00 a.m. to 10.00 a.m. after 1 May 2003, as provided by clauses 38 and 39.

However, there are a number of exemptions to these provisions. Hotels and clubs can apply to the board to have a three-hour only shut-down period on weekends and public holidays. Early openers—defined as a hotel or club that on a regular basis before 1 January 1997 opened for business before 10.00 a.m. on at least one day of the week, and has continued to open on that same basis ever since and will continue to do so—will be permitted to apply to the board to have a different opening time from that specified in the bill. This aspect is of serious concern. Instead of the bill imposing a total ban for a set period of time on all clubs and hotels, some will be allowed to operate during the ban time. This will mean that problem gamblers will be able to move from venue to venue, 24 hours a day.

The exemption will effectively neutralise the mandatory shut-down provisions. The Greens will move amendments in Committee to address some of those provisions. Gambling is a serious problem in our community, particularly in New South Wales. The July 1999 report on gambling of the Productivity Commission contained staggering findings. Australia has more than 20 per cent of the world's poker machines; New South Wales alone has 10 per cent of the world's poker machines. This figure has probably increased given that the commission based its assessment on about 97,000 poker machines. The number has increased to more than 100,000, with a cap being placed at 104,000. It is interesting to note that since the cap was imposed—on 28 March 2000 for clubs and 19 April 2000 for hotels—some 1,600 additional gaming machines have been granted to clubs.

The Greens are pleased that the cap is enshrined in legislation at last. However, we believe the cap is far too high and should be reduced significantly. It is ironic that we have a cap on the number of poker machines; I cannot understand how it will significantly reduce poker machine use. The Government is addicted to poker machine revenue. Between 30,000 and 40,000 people are addicted to gambling, according to a New South Wales Department of Health leaflet. The Productivity Commission found that Australians are among the world's heaviest gamblers, with 330,000 having a chronic problem—that is, 2.3 per cent of the nation's adults. However, those 330,000 problem gamblers impact on more than 1.6 million people. Research has shown that every problem gambler affects five to 10 others. In addition, each problem gambler spends almost $12,000 a year and accounts for approximately 35 per cent of the total amount spent by Australians on gambling.

Problems caused by gambling are depression, suicidal thoughts, relationship breakdowns, debt and poverty, and increased crime. Some gamblers take their children's pocket money and some even sell their house to feed their addiction. Gambling was the primary cause of homelessness cited by 40 per cent of people in shelters. During the three-day Homelessness Summit, which I co-hosted in the Legislative Council Chamber with the Hon. Janelle Saffin and Kevin Rozzoli, a member of the other place, the connection between gambling and homelessness was raised over and over again. When we spoke with some of the many people around the city who are dossing on the streets we discovered that many were problem gamblers. We hear much about drug addicts and alcoholics and people with societal problems, but the Greens are very concerned that gambling has not been put at the forefront of community problems.

At the Homelessness Summit people spoke about their gambling problems. They were in a vicious cycle that was difficult to break—similar to drug addiction. People had ruined their lives and their family relationships because of gambling addiction. It was not uncommon to hear that family homes had been sold to pay for gambling debts. People will always gamble if gambling premises are open and available. People are encouraged to gamble. By law, gambling premises are not allowed to sell alcohol to an intoxicated person, but there is no restriction on allowing them to gamble. Loopholes have been identified in the bill that allow the addicted or problem gambler to sneak through and keep going by moving from place to place. The staggering of hours, with a six-hour break, was a good idea and is supported by many people and organisations.

Church organisations and others look after those who have been made destitute by their addiction to gambling. It is unfortunate that that support has been watered down. There are, however, some positive aspects in the bill. As I said earlier, a statutory cap of 104,000 poker machines will be imposed.

Although the Greens believe this is way too high, it is better than nothing. Clubs will be capped at 450 machines. This will stop the clubs having huge numbers of poker machines. For instance, Panthers at Penrith has more than 1,200 machines. That club will have to reduce its number of poker machines to 450. Space will become available for club patrons to be entertained differently, perhaps by bands or video television theatre.

Live entertainment, which is beneficial to a broader spectrum of the population and provides employment to many in the music industry in New South Wales, has suffered as a result of large numbers of poker machines in hotels and clubs. Many upcoming musicians have lost the opportunity to use such venues to promote their talents. Poker machines have taken precedence over what would otherwise have been entertainment centres in hotels and clubs in New South Wales.

The Bulldogs rugby league club was proposing to develop a huge $700 million entertainment and sports complex at Liverpool. Although this at first glance appeared to be beneficial to the club and the community, it was to be subsidised by up to 600 poker machines. Huge clubs with hundreds and sometimes more than 1,000 poker machines have an enormous impact on their communities. These megaclubs draw people from the community; they encourage problem gamblers, thus causing further human misery.

Other harm minimisation measures in the bill include a prohibition on game machine advertising off club, hotel and casino premises ensuring there is no external signage, or signage that is visible from the street. Prizes paid as part of player loyalty schemes or other gaming machine promotions will be limited to a value of $1,000 and must be in the form of goods or services. Cash is prohibited. Any venue that runs a player loyalty scheme must provide player activity statements to individuals on a regular basis. They must also establish formal links with a problem counselling service. Casinos are treated differently from clubs and pubs; they are not subject to any mandatory shutdown period or restricted to a maximum of 450 poker machines.

Poker machine design is not covered by the legislation. The Productivity Commission in its 1999 report recommended changes to poker machines designed to reduce consumer risk. Indeed, 46.1 per cent of problem gamblers considered that poker machines that took coins, not notes, would be an effective harm minimisation measure. The Gaming Reform Consumer Coalition has observed the removal of coin slots and hoppers from gaming machines in larger venues. The minimum effective bet is now $5 in many places, and considerable effort is required by consumers to access a small win. In many larger venues the consumer is required to call an attendant, who marks the amount on a payment slip, which must be handed to the cashier in exchange for cash.

The Greens would like all note gambling on gaming machines to be banned, with only coin gambling allowed. This would slow down problem gamblers. We would also like to see the maximum bet reduced from $10 to $1, as proposed by the Gaming Reform Consumer Coalition. The Greens acknowledge the problems associated with homelessness and family dislocation. The Government, which is well and truly addicted to gambling in New South Wales, is not prepared to give meaningful and creative consideration to such issues. Indeed, more funds go towards encouraging gambling than go towards finding alternative entertainment avenues or providing appropriate counselling and services to deal with gambling problems. Notwithstanding all that, the Greens support the bill because it is a tiny step towards finding a solution to the gambling problems in New South Wales. However, I could understand that some members might choose to oppose the bill outright; it does not do enough to attain the goal of a balanced society in which entertainment means more than pushing one's hard-earned wages into a mechanical machine and pressing a button.

The Hon. Dr PETER WONG [3.54 p.m.]: The Unity Party congratulates the Government on introducing the gambling reforms in the Gaming Machines Bill. The growth of pokies has been phenomenal when one considers that in 1995 there were only 62,000 machines in New South Wales. We are now debating whether to impose a cap of 104,000 machines—an increase of 68 per cent over six years. I believe that at last the Government is responding to community concerns about the proliferation of pokies in this State. According to the Commonwealth Productivity Commission's 1999 report on gambling, 92 per cent of Australians did not want a further expansion of pokies. I am sure every member of this House would have heard tragic stories about the devastating effect of gambling, not just on the affected gambler but on immediate and extended family members of the gambler.

These problems are well documented and have been highlighted by other honourable members during the debate, so I do not wish to dwell on them here. People are saying clearly and loudly that enough is enough. The cap of 104,000 is welcomed by the Unity Party and I am sure will be well received by the community. However, we must remember that this is still a significantly greater number of pokies than we had only a few years ago. Although it is commendable that a cap has been set, the Government has decided that it will not take the one extra step necessary to control the spread of pokies in New South Wales, that is, to legislate for an actual reduction over time in the number of pokies in New South Wales.

I will move amendments in Committee that will seek to reduce the number of pokies by 1 per cent each year for the next 10 years. At this point I must raise a rather curious provision that seeks to control the harm

caused by pokies. The Government will allow new or existing clubs with less than 10 poker machines to apply for up to 10 free entitlements. On the one hand, the Government wants to control the spread of poker machines; on the other hand, it gives away free licences. Therefore, I will move an amendment in Committee to remove that part of the legislation. It would appear that the Government is still addicted to gambling; it is not willing to let it go.

In addition to seeking to arrest the proliferation of pokies, the bill also includes improved harm minimisation measures. From the commencement of this legislation up until 1 May next year all clubs and hotels will have to close between 6.00 a.m. and 9.00 a.m. seven days a week and, after 1 May, for six hours between 4.00 a.m. and 10.00 a.m. However, options are available to reduce the number of hours from six to just three. The Unity Party welcomes this measure because it will force gamblers to stop, thus breaking the addictive cycle and minimising harm—at least for that night. However, Unity Party does not welcome at least two loopholes relating to the shutdown clause. One such loophole will allow clubs and hotels to apply for a reduction in shutdown hours from six to three hours on weekends and public holidays with local council approval. The loopholes must be removed because some hotels and clubs will do everything they can to remain open for the longer period.

My concern is that the Land and Environment Court will override local government decisions and permit the shorter closing period. Hotels and clubs will already have been operating for 12 months with the three-hour closures, so the precedent will have been set. The second loophole permits hotels that can establish a history of an "early opener" prior to 1997 to apply for a different six-hour or three-hour closure period from that prescribed in the bill. Obviously, as one venue closes, gamblers will be bussed by operators from the closed venue to the venue down the road that is just opening. I note that prior to introducing the legislation the Government consulted with all relevant industry groups, including the Star City Casino. I cannot help but conclude that the Star City Casino has come through this process in a better position than others in the gambling industry in that it can operate legally for 24 hours and has more than 1,000 poker machines.

Another positive harm minimisation aspect of this bill is more rigorous controls on advertising and promoting gambling. This legislation will ban all off-premises gambling machine advertising, whether for a hotel, a club or casino, and no external signage promoting gambling may be visible from the street. Furthermore, prices offered as part of a loyalty program or pokies promotion will be limited to a value of $1,000 and can be only in the form of goods or services. This is a particularly good move as valuable prizes are proportionately more attractive to those on lower incomes, who can least afford to chase the prize by playing more or playing longer. A Ferrari sports car was the main prize in a recent promotion at a club located in one of the most socially disadvantaged areas of Sydney.

This gambling reform package is long overdue, and the legislation contains many good elements. However, the Government has stopped short of taking the next logical steps. I have already mentioned reducing the number of poker machines over time. We should not be happy that there are 104,000 pokies in New South Wales. This legislation does not seek to slow the speed of pokies, which would reduce the number of games played in a given period. There was speculation earlier in the year that the Government might legislate to reduce the maximum poker machine bet to $1. It is regrettable that these important harm minimisation measures have ended up on the cutting room floor, apparently edited out of the bill as a result of pressure by clubs and hotels. It is a triumph of vested interests and some very greedy profiteering over the interests of the broader community. However, I recognise that New South Wales will be ahead of the game as a consequence of this bill. I sincerely hope that this is not the end of the reform process and that over time the Government will introduce further reforms that did not make the cut this time.

I conclude with some comments about problem gambling so that there is no doubt about my position in this regard. Gambling is destroying the lives of tens of thousands of people in New South Wales. I consider gambling addiction and the damage it causes to be as serious as drug addiction, and those who knowingly profit from addicted gamblers are morally no better than heroin traffickers. The hotel and club operators deny this emphatically but, if they are honest with themselves, they will admit that it is true. Apart from the health and social impacts on gambling addicts and their families, the expansion of gambling also increases the potential influence of organised crime on our government and institutions. Wherever there is organised gambling in the world, organised crime follows. Las Vegas has been a mafia town for decades despite attempts to reduce the influence of organised crime. When there are large cash flows of untraceable money, crime figures can easily launder their illegal gains. Drug money becomes gambling profits overnight.

Our local clubs and hotels will become targets for organised criminal influence or control. As part of a powerful industry that pays vast sums in tax, organised crime can exert influence on local and State

governments and government bodies. This is a very unhealthy development, and all the more reason to restrict and control the growth of gambling and gaming revenue. I agree with the Hon. Greg Pearce, who said there is no reform in this legislation's central control mechanism. The Government's failure to legislate to establish a gambling ombudsman, an independent gambling authority or a similar body is much regretted.

Reverend the Hon. FRED NILE [4.03 p.m.]: The Christian Democratic Party supports the Gaming Machines Bill, which, as other honourable members have said, should be renamed the "Gambling Machines Bill". We would certainly support an amendment to the bill's title in order to clarify its purpose. In the words of the Government, the bill:

> … gives effect to a number of new measures designed to limit the number of gaming machines in hotels and registered clubs and to promote the primary object of gambling harm minimisation as referred to in clause 3 of the Bill.

The object of the legislation is gambling harm minimisation, yet the Government—indeed, both sides of politics—has shied away from the word "gambling" and used "gaming" instead. This has connotations of an innocent game of cards or some other harmless pastime that is not played for money. However, this legislation deals with gambling.

We are pleased that the Government has reacted to several issues raised by crossbench members over the past few years. A large part of my 1981 maiden speech was devoted to the gambling craze and the problems associated with poker machines even then. Both sides of politics have allowed gambling opportunities to expand every year and now a gambling monster is on the loose in our State. This has forced the Labor Government, which has happily accepted tax revenue from poker machines, to recognise the major community reaction against the spread of gambling in our State and our nation as a whole. Many families have been personally touched by gambling. Some 300,000 problem gamblers—there are probably many more—are paying a hidden tax to the New South Wales Government.

We are pleased that this legislation caps poker machine numbers. Crossbench members have suggested introducing a freeze on poker machines but, even as we talk about it, the numbers increase. The number of poker machines in New South Wales will now be capped at 104,000, with 78,020 in clubs and 25,980 in hotels. Honourable members may remember that in 1996 there were only 65,000 poker machines in this State in 1,441 clubs. In 1997 legislation was passed to allow poker machines in hotels—despite strong opposition from crossbenchers, who united in rejecting the proposal—and the number of venues with poker machines increased by 128 per cent. I said the crossbench was unanimous but I have just been informed that the Hon. Alan Corbett's vote was not with the crossbench. I would need to check that. There are now almost 26,000 poker machines in hotels. There would be none if the Opposition had voted with crossbench members on that occasion; we had the numbers. We could have defeated the bill, erected a roadblock to the expansion of gambling and then worked to wind back that activity in this State. Sadly, that did not happen.

The legislation provides that clubs will be capped to 450 machines. Clubs with more than 450 machines will be required to shed 10 per cent of their machines over the next five years, except where it would take the club to less than 450 machines. The Unity Party, led by the Hon. Dr Peter Wong, talked about a 1 per cent reduction and proposed an amendment to that end. The Christian Democratic Party has not put up an amendment, but we believe there should be a systematic reduction in poker machines by 10 per cent each year. This year the State has 104,000 poker machines. Next year there would be 94,000. In 2003 there would be 84,000, in 2004 74,000, in 2005 64,000, in 2006 54,000, in 2007 44,000, in 2008 34,000 and in 2009 24,000. By 2010 the State would have only 14,000 poker machines. That is the way to go. I acknowledge that the Government would have to find other ways to meet its budget. The Government has become dependent on gambling sources for a large percentage of its income.

The Christian Democratic Party is also concerned about reports of ruthless owners obtaining a country hotel licence and then re-establishing that licence in the central business district. The establishment then becomes a poker machine or gambling machine shop with a liquor licence. The Government is aware of this problem and needs to keep a close watch on it. I note that the city council is also concerned about this issue. The legislation retains the current cap of 30 machines in hotels. The current restrictions on the number of poker machines that hotels can keep within that cap of 30 are to be removed. The legislation also includes a transferable entitlement scheme. I believe that many of these arrangements are open to abuse.

There is a danger in the way in which that scheme will be supervised, otherwise establishments, by backdoor means, will increase poker machine numbers or saturate certain areas with poker machines, as it is suggested has happened in the Liverpool area. The legislation will allow new clubs and existing clubs with less

than 10 poker machines to apply for up to 10 free entitlements. Under this arrangement, for every three entitlements sold one is to be forfeited into the club or hotel pool. The Government will have to set up a large bureaucracy to supervise this arrangement, which seems to be a complicated set-up and one that is open to possible abuse. A section of the bill deals with ownership rights. Entitlements will be issued in respect of a particular hotel licence or certificate of registration. As to hotels, applications to transfer entitlements will be made by the licensee, but they will need the consent of. the licence owner.

The legislation also has provision for hardship cases. The Government always seems to be very concerned about the hardship of clubs or hotels that operate poker machines. Often clubs or hotels use the hardship case as a loophole to get around the legislation. Hardship applications for free entitlements will be able to be submitted by hotels falling into one of four categories. The first category relates to hotels that have applied to install additional machines at the date of the announcement of the freeze on 19 April 2001. The Government is virtually saying that although there is a freeze, hotels will still be able to get approval. The second category relates to applicants for a new or removed hotel licence, where the applicant had obtained a conditional grant by 19 April. The third category relates to applicants who can establish that they had entered into a contract for significant building or refurbishment work prior to 19 April, and the fourth category relates to other extreme cases of financial hardship. All of those categories are very subjective. The third category relates to applicants who have contracts for building work and extensions, which costs a great deal of money. The Government, which relies on revenue from poker machines, has given them assistance in that regard.

The Christian Democratic Party supports the social impact assessment process. Again, that process needs to be spelt out. I asked Government advisers for the wording of the impact assessment which, apparently, will be part of regulations. I would like to see the social impact assessment document and the questions that will be asked to ascertain whether the wording is strong enough for it to be regarded as a genuine social impact assessment, not a Clayton assessment. The social impact assessment process will apply to all cases where additional machines are to be installed at a venue, including the addition of any machines at a new hotel or club. There has been a great deal of debate about this issue in the Liverpool area and talk of super clubs with a huge number of poker machines. There must be a genuine social impact assessment process. The legislation also provides for the amalgamation of clubs. Amalgamations are to be limited to no more than four per club. An exception will be when a club amalgamates with another club in the same district. Clubs that have made firm commitments to amalgamate will be permitted to proceed with those amalgamations.

Some clubs that are struggling for various reasons, possibly bad management, wish to amalgamate. I have stayed at the motel in the Panthers complex. I know that the Panthers club has expanded and taken other clubs under its wing. Problems would occur if a monopoly developed by one or two clubs taking over many small clubs. Clubs, as distinct from hotels, have always been community-based operations, with local membership, their own board of directors and a close community association. It is important to maintain that situation. My main concern with the legislation is the mandatory closure period for gaming machines. I know that this is also a concern of many gambling counselling operations. They believed that the Government had agreed to be strict on this matter. The initial agreement was a closure period of six hours. We now find that the period has been watered down to three hours. All clubs and hotels are to close their gaming machine operations for a standard three hour period from 6.00 a.m. to 9.00 a.m. seven days a week from the commencement date of the legislation, 1 May 2003—after the next State election.

The agreement, which we believed had been a closure period of six hours, has been watered down to a closure period of three hours. But, even worse, that arrangement does not change until 1 May 2003. From 1 May 2003 clubs and hotels will generally be required to close gaming machine operations for six hours from 4.00 a.m. to 10.00 a.m. seven days a week. From now to 2003 there will be only a three-hour closure, and then a promise, almost in the hereafter, that from 1 May 2003 there will be a six-hour closure.

We all know that a State election is to be held in 2003. We cannot predict the outcome or what the policy of the Coalition will be—whether or not the Coalition would proceed with that plan if elected to office. The Coalition, if it has not already done so, might care to make its position clear and announce that it would not change the arrangement if elected in March 2003; that it would not proceed with the six-hour closure and would not amend legislation. Of course, as the elected Government, the Coalition could amend the legislation. Legislation passed by this House today can be amended by a future Government. The Labor Government, if re-elected, could amend legislation. It could say, "We think a six-hour closure is draconian. We will reverse that decision. We will make it a three-hour closure." After the election it may choose to abolish the closure period altogether.

A lot of this is preparation for the forthcoming State election in 2003 and an attempt to quieten down the widespread community concern about the impact of gambling in our State. I believe it is almost dishonest of

the Government to put over to 2003 all things that we want to see happen now. I propose to move an amendment to delete "2003" wherever it appears and replace it with "2002". I believe the Greens will move an amendment to delete the year altogether. The Christian Democratic Party would, of course, be happy to support such an amendment as the first option and have the closure period take effect immediately after the legislation is enacted. If an amendment does not have the support of the House I will move an amendment to alter the year to "2002". That would make it May next year and I believe everyone would have sufficient time to organise the businesses to conform with the closure period.

However, even if that were carried, there will be two exemptions. The first exemption will allow clubs and hotels to apply to have the mandatory shutdown period of three hours, from 6.00 a.m. to 9.00 a.m., reduced on Saturdays, Sundays and Public Holidays. That will happen, of course, in 2003. Approval will be subject to local council agreement and to meeting any prescribed harm minimisation measures. The other exemption is that clubs and hotels that can establish a history of trading as early openers prior to 1997 will be permitted to apply for a different six-hour or three-hour closure period to that which is standard. As has already been suggested, once we get away from having a simultaneous closure, people will only have to move down the road. They can shop around and find out which premises will be open and at what time, and work out a system so that they can gamble continually merely by moving to another location.

One of the positive aspects of the bill—as I said, the object is harm minimisation—deals with advertising. Honourable members will recall that I introduced a bill to prohibit gambling advertising, the Gambling (Anti-Greed) Advertising Prohibition Bill, which, from memory, the majority of the crossbench supported but which both major political parties opposed. It may be that the Government has had to be dragged kicking and screaming into making this decision, but it has made the decision that no gaming machine advertising will be permitted off the premises of clubs, hotels and the casino. There is to be no external signage, or signage that is visible from the street. We support those provisions. I made inquiries in order to reassure myself that it was not going to be just a prohibition on an advertisement relating to a poker machine. I am pleased that the wording in the bill is broader than that.

Clause 43 of the bill deals with the prohibition on publishing gambling-related advertising. It is clear that the prohibition does not apply only to advertisements that relate to poker machines. That clause states that a hotelier or registered club must not publish or cause to be published any gambling-related advertising. The Christian Democratic Party is pleased that that provision forms part of the bill. We assume that the bill will be passed and that that provision will become law. Clause 44 deals with a prohibition on displaying gambling-related signs. Subclause (1) of Clause 44 reads:

> (1) A hotelier or registered club must not display or cause to be displayed any gambling-related sign:
>
> (a) anywhere outside or in the vicinity of the hotel or club, or
>
> (b) anywhere inside the hotel or club so that it can be seen from outside the hotel or club.

We are pleased that that provision has been included in the legislation. That was basically the object of the bill I introduced that did not pass through this House. The bill includes a new sanction that the court will be able to suspend or cancel the entitlement of a club or hotel to operate gaming machines if a complaint relating to gaming machine breaches is established. Clubs are to be required to publish certain information in their annual reports to members, including directors' benefits, the salaries of the five highest earning executives being paid more than $100,000 per annum, gaming machine profits, community development and support expenditure [CDSE], and whether the club or secretary of the club holds an interest in a hotel. Club secretaries are prohibited from having a financial interest in a hotel. We support those provisions in legislation. We are pleased the Government has introduced the bill but are unhappy that it has watered-down what I consider to be a key initiative, the closure period of six hours to commence forthwith. As I said, it will now not take effect until 1 May 2003. I hope honourable members will support our amendment in due course.

The Hon. RICHARD JONES [4.26 p.m.]: I support the Gambling Machines Bill and express my disappointment, as did Reverend the Hon. Fred Nile, about the reduction in the closure period from six hours to three. I will support the honourable members amendment to make the commencement date 2002, not 2003. I also propose to move an amendment to make the closure period four hours as a compromise, halfway between six and three, so that all premises will close from 5.00 a.m. until 9.00 a.m. I hope my amendment will be supported.

[*Interruption*]

Okay, it is two-thirds of the way. I find it sickening that the State has become so dependent on revenue from people who basically cannot afford to gamble. What is happening is that huge amounts of money, hundreds of millions of dollars, are being lost in these machines all over the State. We now have thousands of mini-casinos. The people involved are mostly families who cannot afford to gamble. Some families go broke and lose their homes, other families break up. We have seen a vast expansion of this over the years. New South Wales is a bit like Las Vegas where there are gaming machines just about everywhere—at least there were when I was there many years ago. I applaud the Government for taking some very tentative steps to reduce our dependence on this revenue.

I hope that the 450-machine cap will be further reduced at some point, down to perhaps 400. As Reverend the Hon. Fred Nile indicated, the general trend is towards lowering the number to perhaps 200 and to 100 later on and get back to a sensible situation. I hope that something will be done for these poor families who put so much money—food money, and rent or mortgage money—into these awful machines. Governments should somehow get off the gambling teat they are addicted to and find other, more honourable ways of raising taxes and money for hospitals, schools and so on. I think it is a very dishonourable way to raise money. It would appear from the number of parties or individuals who propose to move amendments tonight that the issue is regarded very seriously by honourable members.

Many share the view that governments should not be so dependent on this revenue. I do not think that clubs or hotels should be dependent on the revenue, either. I very rarely go into these clubs and hotels. I really do not like going into them and having to face all those flashing machines and lights. I do not want to go to Las Vegas every time I go out, so I tend to avoid those venues. I hope that other people will also do the same. If everyone did that, hotels and clubs would struggle to exist. Regrettably, many people have become totally addicted to the thought that they may win some money, but they very rarely do.

The Hon. Duncan Gay: Why wouldn't you go into a pub occasionally? I enjoy the ambience.

The Hon. RICHARD JONES: I do not enjoy all those flashing lights and machines and addicted people.

The Hon. Duncan Gay: You don't have to go in there. You don't have to go into the gaming room.

The Hon. RICHARD JONES: Country pubs may have a different atmosphere and different people. It is a much more friendly atmosphere; unlike the atmosphere in some Sydney pubs, where people are desperate to make money, but mostly lose it. I support the bill. I hope the Government will take further steps in this regard and that they will be fully supported by the Opposition, which should have similar policies to greatly reduce dependence on these awful machines.

The Hon. PETER PRIMROSE [4.30 p.m.]: I support the bill. I will highlight a couple of the harm minimisation measures that have not been highlighted in other speeches. No gaming machine advertising is to be permitted off the premises of clubs, hotels and the casino.

The Hon. Greg Pearce: I congratulated the Government on that.

The Hon. PETER PRIMROSE: I heartily welcome and endorse those remarks.

The Hon. Elaine Nile: You were not listening if you did not hear that.

The Hon. PETER PRIMROSE: I was listening and I was enthralled. But, as I said, I wish to highlight some of the points that I do not believe have been sufficiently highlighted in other speeches. I am pleased that I am receiving the full attention of members. There is to be no external signage or signage which is visible from the street. Prizes paid as part of player loyalty schemes or other gaming machine promotions will be limited to a value of $1,000 and must be in the form of goods or services—no cash. Any venue which runs a player loyalty scheme must provide player activity statements to individual players on a periodic basis.

Clubs, hotels and the casino must establish formal links with a problem gambling counselling service and must establish self-exclusion schemes. Some measures in the bill were not included in the initial announcement. For instance, there is a new sanction. The court will be able to suspend or cancel the entitlement to operate gaming machines of a club or hotel if a complaint relating to gaming machine breaches is established. Clubs are to be required to publish certain information in their annual reports to members, including directors'

benefits, salaries of the five highest-earning executives being paid over $100,000 per annum, gaming machine profits, CDSE—for the information of the Hon. Greg Pearce, that is community development and support expenditure—and whether the club or the secretary of the club holds any interest in a hotel.

The Hon. Greg Pearce: Who told you?

The Hon. PETER PRIMROSE: It is in the bill, which I have read. I commend it to the Hon. Greg Pearce. Clubs and club secretaries are to be prohibited from having a financial interest in a hotel. So for those and all of the eminent reasons that have already been mentioned—

The Hon. Duncan Gay: What about the Police Minister?

The Hon. PETER PRIMROSE: Earlier the Deputy Leader of the Opposition was admonishing me for seeking to waste the time of the House. I am not seeking to waste the time of the House so I will not entertain the frivolous interjections from the Opposition.

The Hon. JOHN TINGLE [4.33 p.m.]: I intend to speak only very briefly to the bill. I simply say that it is something we have needed for some time. Indeed, I believe we have needed it ever since this Parliament passed a bill allowing poker machines to go into hotels in the first place. I remind honourable members, and inform those who were not here at the time, that the Opposition and the majority of the crossbenchers were against that original bill because we felt that there were two problems with it. It extended the use of gaming machines—or gambling machines, if you want to call them that—into new areas of New South Wales. It also perhaps produced an unreasonable weight against registered clubs in favour of hotels.

However, poker machines are now in hotels. They have become indispensable in many hotels, particularly small country hotels. It is probably unrealistic to suggest that we can take them out. But we need to curb their expansion and put a cap on their numbers, as this bill does. Another element of the bill which has not been touched on in debate up to date is the need to curb the aggressive expansive activities of one or two large registered clubs such as Penrith Panthers, which seems determined to take over every club in this State. If it does, it will have access to a huge number of poker machine entitlements. We have to put a cap and a curb on that. I believe that the bill is worthwhile, commendable and socially responsible. It is just a little bit late. But it is better late than never, and I support it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [4.35 p.m.]: I do not oppose the bill. It is too little too late but it is better than nothing. There is an interesting parallel with the tobacco industry. For 50 years we had to praise governments—and still praise them—every time they took a tiny little step forward. Yes, the problem was huge and, yes, what they were doing was tiny, but they had to be praised and not criticised because then they would do even less. New South Wales now has 10 per cent of all the poker machines in the world. The country has a huge problem and the State gets 11 per cent of its revenue from gambling and is well and truly addicted. Two groups, the hotels and clubs, both want as much of the revenue as they can get, and jockey against each other so that if one gets slightly more machines the other asks for more machines. So there has been an escalation.

As Reverend the Hon. Fred Nile pointed out, the introduction of gambling machines to hotels did immense harm to the live music industry, which had benefited immensely from the fact that because hotels did not have machines they had to compete with the clubs by having live music. This did immense good for Australian bands and music, with resulting exports. But when the poker machines came into hotels the rooms where the bands had played were largely shut down. Music groups suffered and the export of Australian music and bands suffered. Gambling is now everywhere. It is as if the horse has bolted and we are looking at it disappearing into the distance and wondering what should be done about it.

The first thing we need to do is to define the problem and look for historic parallels. One of the first steps is my amendment, which would change the term "gaming machine" to "gambling machine". That is the term used by the average citizen: a gambling machine, a poker machine or a one-armed bandit. When the machines were electrified and it was not necessary to pull a lever to make the reels spin the term "one-armed bandits" fell into disuse. The term "poker machine" was generally shortened to "pokie". If you asked the average person in the street, "What do you call those things with the lights that go round?" he would call them gambling machines. If one were to compare the number of people who called them gambling machines with the number of people who called them gaming machines I think you would find the semantics very much on the term "gambling machine".

The semantic difference is extremely important. Gambling has connotations of loss through betting and gaming has the connotation of playing a game. In the last couple of days someone referred to a game bill in this House and somebody asked, "What does that mean?" Someone else said, "It means different sorts of animals and food, as opposed to a sports game or relating to gambling." The word "game" has been hijacked by gambling interests to create confusion and in order to gain respectability.

The ignorant interjections demonstrate that members are not concerned about semantics, but semantics are very important to the way that things are portrayed. There has for some time been a concentrated campaign—which I have not followed historically closely enough to say how long it has been going—to use the word "gaming" instead of "gambling". The idea is to put the practice of gambling into a neutral form which makes it appear harmless. Earlier there was an interjection along the lines of, "You must go into a pub some time, it is harmless." That was another attempt at neutralising the practice and using euphemisms. It has been said that people who understand the semantics of gambling recognise that it is divided into gaming and wagering. The word "wagering" is used much less frequently than the word "betting".

Poker machines are a form of gambling, and placing a wager on a horse race is a form of betting. The word "gambling" has the connotation that it is likely to do harm cause one to lose money; the word "gaming" does not have that connotation. For that reason the industry is pushing for the use of the word "gaming". If this House is serious about discouraging the practice, we should see this for what it is. The attempt to use the word "gaming" instead of "gambling" is a public relations exercise to make it appear harmless; effectively, that is another part of the marketing of gambling. Just before one of Neville Wran's elections, probably in 1981, a deal was done to legalise gambling advertising. The State Government then introduced Lotto, in a coalition-type deal with the two major media owners in Australia.

The Hon. Duncan Gay: It was not the Coalition, it was a Labor deal.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It was a Labor deal, but it was a coalition between the Labor Government and the major media owners. Not all coalitions are the shambles that I see before me in this House. Gambling advertising appeared in people's homes on their televisions, as part of the normalising process that encourages people not to look at gambling as harmful but to treat it as a minor aberration, a small problem. However, it is a major social problem for those involved. Historically, gambling has been criticised by religious groups. In the days before the welfare State religious groups picked people up from the gutter and looked after them. They may have been judgmental in their approach, but at least they provided facilities for people who had fallen on hard times, done their money, been ripped off or had some other problem, such as a disability.

Church organisations said that gambling was evil, and linked it to the devil. They had a prohibitive approach to it through their language, their literature and their lobbying. As religions lost power in society, the idea of wowserism was discredited. Just before I began this speech the Hon. Ian Macdonald commented that there had been three or four wowser speeches already, and that I could afford to be brief because everything had already been said. He was effectively saying that anything I said that questioned social harm was disparaged by this name calling. When I first spoke in debate on the tobacco legislation I was called a do-gooder. I had to listen to a do-badder call me a do-gooder. Eventually I woke up to that and said, "That is just name calling. It is as if doing good is somehow bad—you know that you are doing bad yet you are trying to do more bad. Although no-one is stopping you, you really do not have a negotiating position. You are just doing a bit of silly name calling."

If we are serious about our objectives we should acknowledge that we are here to make New South Wales a better place, and we have to introduce legislation to do that. Big interest groups have the opportunity to rip people off. In this dog-eat-dog, survival of the fittest scenario, the big will always take from the small. The essence of democracy is that parliamentarians are elected by the people to represent their interests for the common good. In this case the common good is expressed as a force, pushing people to spend their money in ways that do optimise their welfare. People who spend their money on gambling would do better to put that money into superannuation, because it would benefit them in the long term. It would also benefit the State in the long term, because the State would not have to pick up the difference through welfare or other payments.

Every advertisement for gambling sends the message: Do not spend your money wisely. Anyone who has done a management course would know that the way to get the best decision is to make good decisions at the lowest possible level of an organisation. If the State was looked at in a managerial sense—and, God help us, we do that often enough—one could say that the best way to make good decisions to optimise people's welfare

is to have the people make good decisions for themselves. If we do not take a stand against gambling, we are effectively allowing the strong and the rich to encourage people to waste their money. The Democrats believe in empowering people to make good decisions rather than allowing big fish to eat little fish, or big companies to tell lies.

That analogy can be applied to this bill, in the context of public health. Whenever I think of public health, I think of tobacco. The powerful tobacco industry was quite happy to sell its product, no matter what social harm it did. The Government stood by, and is still standing by. I acknowledge that some progress has been made in the past 50 years, but with deaths averaging 13 a day in New South Wales that progress is small. The Government could have done much more. In a loose moment the tobacco industry said, "First you get the buyers to suck, then you can easily get the suckers to buy." Children were attracted to smoking by a clean image and cigarettes were subtly linked to the initiation of adult behaviour, such as sex. That was referred to in the Roper report in 1988, for Brown and Williamson. During the health scare in relation to tobacco, the euphemisms "mild" and "light" were used. It was suggested that those types of cigarettes were less harmful. Advertising was directed at making tobacco use a normal practice.

The Hon. Duncan Gay: Point of order: My point of order is to relevance. The Hon. Dr Arthur Chesterfield-Evans has been speaking for a considerable time about the evils of tobacco. I draw attention to the fact that this is a gambling bill—or a gaming bill, to use the honourable member's differentiation. This bill has nothing to do with health or tobacco.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: To the point of order: I have been speaking for less than two minutes on the subject of tobacco in a discussion of the historic effects of gambling. Basically we are dealing with an historic epidemic that is likely to last for the next 50 years. My reference to children's initiation to smoking, the use of euphemisms, the effect of advertising and the effect of research is to draw an exact parallel between the way that tobacco was marketed in society and the way that gambling is now being marketed. It is my right to make such parallels, and the time that I have taken to do so has not been excessive. Basically, the Opposition does not want to listen, but that is tough luck. And my right to make a perfectly reasonable speech should be upheld.

The Hon. Ian Macdonald: To the point of order: The Government joins with the Opposition on its point of order.

The DEPUTY-PRESIDENT (The Hon. Helen Sham-Ho): Order! I do not need to hear from the Hon. Dr Arthur Chesterfield-Evans. The honourable member should not stray from the content of the bill. He should make his comparisons more relevant.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I referred to the addictive nature of tobacco products and the addictive nature and attraction of gambling machines in that some mothers leave their children in cars outside casinos, and some have died from heat exposure. I referred to the euphemism of mild and light cigarettes. A similar euphemism exists with regard to gambling. People are conned because advertising appears on the screen to normalise it and people like the Hon. Duncan Gay regard it as a part of life. The tobacco industry complained about lack of research on the subject, although more research was available on tobacco than on any other subject in the history of medicine. The suggestion was that the research was not relevant.

On the other hand, there is a slight difference between the two because the medical industry was involved in undertaking research into tobacco, although it was ignored at a political level for 20 years, but there is a genuine lack of funding to help people stop gambling because most of the research is funded by the gambling industry. Without a large commitment of funds, presumably from taxation—the allocation of which will need to be severely controlled so that it is not controlled by the industry itself—it will be difficult to pursue a harm minimisation strategy. The tobacco industry, which generates huge amounts of money and has great political influence, has little acolytes in the form of the little retailers who were squeezed because they were small shopkeepers.

In the case of gaming, they may be small clubs or hotels in small towns, which rely on only one or two machines to be viable. Effectively, there is a model of dependence on capital. Indeed, this heroic State Government is severely dependent on gambling revenues. Gambling corruption and organised crime were dealt with by the Wood royal commission and the royal commission that was held 10 years earlier. Poker machines were legal at that time and illegal drugs were the engine for organised crime. Again, it is the same principle of an organised network with a large revenue. The cap on machines increased the value of the licences. Things

such as taxi licences have a value only because of their rarity, and if the number of licences are to be reduced, it must be decided whose licence should be taken away without compensation. Taxi or hire car licence values can be clawed back using the resources of a strong and powerful lobby.

There is a similarity between children's computer games and gambling machines in that children may make the transition from playing computer games to gambling. It is a conscious strategy to get people hooked. For as long as possible—indeed, some 30 or 40 years—the tobacco industry denied that cigarettes cause harm. Today I received from the industry a press release entitled "Casinos Boost the Economy". The press release referred to the number of gambling machines, and stated that they were good for the economy and kept many people in employment. I suggest that in economic terms this is capital transfer because people spend their money in casinos rather than elsewhere so the effect on the economy is negligible.

If one is looking for a model of social policy on drugs and gambling, one must examine this issue on a national and sociological level and acknowledge which social practices cause harm. The hazard must then be evaluated, controlled and minimised. If alcohol, tobacco, illegal drugs and gambling practices were evaluated in terms of their social harm, without an a priori moral judgment being passed on them, that would be the best way to optimise regulations for future generations. The cap on poker machines is a misleading panacea. The biggest problem with the machines is the technological developments that have occurred in the past five years. Technology-driven growth is the result of the policy directive to have a new technical standard and allow machines into hotels. This created a huge spike in research and development spending, which lifted gambling machines to new heights.

The Liquor Administration Board has undertaken some work in this area but the passage of this legislation has pushed the technological factors into the background, and that is fundamentally wrong. There is no doubt that a critical policy objective is the effective control of an operating standard with a stated objective restricting technology-driven earnings, which is, of course, the industry euphemism for player losses. Warnings should flash up on the screen. I understand that Reverend the Hon. Fred Nile will also move an amendment in Committee. The Minister referred to problems relating to hotel lessees. Discussions have taken place with regard to including guidelines or mediation in the regulations.

My advice is that attaching the permits to the licence will ultimately lead to the lessee losing out to the lessor. That will obviously mean that the publican does not do as well as would otherwise be the case. The industry may do better with a concentration of money. The legislation should state where the contract is silent on gaming machine permits. It should then vest 50-50 with the lessor or lessee and state that the first trade—including transfer of the lease and termination of a new lease—is without the one-for-two forfeiture requirement. This would mean that each party takes an effective 25 per cent loss if the full value of the machine permits.

If this is not done, there will be considerable litigation between lessors and lessees when machines are transferred or given up. Social impact assessments are not adequately covered in the bill and are part of the concept of minimising social harm. There should be a third level of social impact assessments, that is, an annual report by the hotel or club comparing its gambling data to that of other hotels and clubs in similar areas. Logically, it should be a pro forma report based on the cnetralised monitoring system [CMS] data from an independent body. This type of social impact report should be made available to local groups and local government. That would produce an amalgamated social impact assessment level three for a local government area, which would be considered by local government. I shall return to that later.

Section 209 is a blanket exclusion of local government planning powers, and that is a bit rough, given the social impact of misapplication of resources and consequent misery. The material relating to the disposal of poker machines in country hotels is a difficult area which I do not wish to deal with now. I note that the Hon. John Tingle's amendment offers a solution to the problem.

Clause 45 does not go as far as it should. As I have said before, player tracking should be mandatory. The right to exclude should be extended to all, rather than simply to those players who request it. If the technology exists to link everyone in terms of jackpots, it clearly also exists to link those who should be excluded. This would help people with a gambling problem. The machines that create the problem must be part of the solution, and messages from the machines identifying players and detailing how much players have lost could offer some assistance. The assertion that this is some monstrous invasion of privacy is akin to the tobacco industry's argument that putting health warnings on cigarette packets was a monstrous intrusion on tobacco companies' trademark rights and designs. That is the ambit position in this case, and it was the position when the tobacco industry reigned supreme and sought to hook in as many people as it could—not that I believe it has ever stopped that activity.

Clause 47 (2) should include the mandatory requirement to install in poker machines a device that periodically advises players on screen of their real-time playing statistics. This device already exists—perhaps as a result of a specification by the Liquor Administration Board—and costs about $500. It has a life greater than that of the machine, estimated to be at least five years, so would cost $100 per annum. The device, called an automatic assisted patron protection system, takes no more than 10 minutes to install and was developed by Australian software company ECM Technology in response to the first determination on technical standards for harm minimisation by the Department of Gaming and Racing. The device can plug into all New South Wales gaming machines and has been demonstrated to the Minister for Gaming and Racing, Mr Richard Face, and his advisers and department heads, including Ken Brown and Jill Hennessy. In addition, senior department heads from the magistrates board and the Liquor Administration Board, including the chair of the board, Mr Amarti, have viewed demonstrations of the device and received submissions since December 2000.

The New South Wales Council on Problem Gambling and the Reverend Chester Carter also had a demonstration of the device. As a consequence they have called for its installation on all gambling machines in New South Wales and made representations to that effect to Mr Face and the Premier. It is disappointing that this legislation makes no provision for the introduction of this device, as this was an opportunity to do the gambling equivalent of printing warnings on cigarette packets. The device sits across the data stream used by the centralised monitoring system [CMS] and interrupts players to tell them how much they have lost and what it is costing to play per hour. I believe this would be an important responsible gambling initiative. We should fight hard on this point, and I think use of the device should be made compulsory within a certain time frame—perhaps 12 months.

I am particularly concerned by the intention in clause 67 to transfer some of the board's powers to TAB Ltd. Clause 74 (2) does not make it clear how far an hotelier may go in establishing personal arrangements to finance his or her hotel and/or gambling machines in that hotel. This conflicts with the exclusive licence granted to TAB Ltd and the allowance of the Australian Hotels Association to enter into a joint venture with TAB Ltd for that purpose. I am also concerned about part 9, especially clause 136, as it is protected from Trade Practices Commission provisions by clause 169. The Government has effectively forced every hotel and club to have a network-terminating device on the TAB's network, which is akin to having a Trojan horse in every hotel and club in New South Wales. TAB Ltd has built a Rolls-Royce network, which it can use to deliver other products such as linked jackpots, TAB wagering facilities or e-commerce applications. This gives TAB Ltd a huge competitive advantage over other companies seeking to provide e-commerce services to that industry. At the very least the TAB should agree to having the network declared by the Australian Competition and Consumer Commission or the Australian Consumers Association so that third parties may use the network at a fee determined by the regulator. The self-exclusion systems to which I have referred could, and I believe should, also be used in that way.

Clause 117 (1) (a) (iii) should be used to ensure that CMS data is made available to interested parties investigating and reporting on responsible gambling. Clause 209 introduces a big problem with free market transfer, which means that machines will tend to migrate to areas where they earn the most money—which is of course where players lose the most money. There must be a mechanism that enables local government to assess the social impact of gambling in their jurisdictions and to use this information when considering applications for new gaming machines. There must also be methodology whereby a hotel or club that needs to dispose of machines either to bring its allocation or a local government allocation under an acceptable threshold can transfer those machines without the block requirement of two transfers and one forfeiture.

Clause 210 has all the teeth, and it is interesting to note that all the regulations are at the discretion of the Minister. I believe exposure regulations are available, and I request that the Parliamentary Secretary table in the House before the end of the debate the draft regulations that he intends to introduce under this clause. They are an important indicator of the way in which the Government is thinking in this context. This bill vests enormous power in the regulations, and we would like to know what they are.

The bill makes some progress in addressing a growing social problem, which is likely to continue to worsen. Social problems tend to increase in magnitude until there is a real imperative to resolve them. Some progress is then made as we come to terms with a social harm. We have had the explosive growth phase of the gambling industry, and this legislation is the initial response of a government that is not yet courageous enough to act in the social interest against the interests of the powerful money lobby. The bill makes some progress in this regard, but not a great deal. It certainly does not do as much as it could within the safe boundaries of massive public support. The Australian Democrats support the bill as far as it goes, but we would like to see much more evidence-based legislation. We want to know whether closing gambling establishments for a few

hours would be good or harmful and the extent of that good or harm. We must proceed on a rational basis, using systematic and well-funded research. We will try to modify the bill in Committee and take the first steps in a long campaign—which could continue for the next 50 years—to bring gambling within some reasonable social framework.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.08 p.m.], in reply: I thank all honourable members for their contribution to this debate. I must respond to the Hon. Dr Arthur Chesterfield-Evans' contribution, which I thought smacked of intellectual snobbery. The 1997 report of the Productivity Commission found that roughly 2 per cent of Australians have a problem with gambling. The vast majority of Australians do not have a problem with gambling. The vast majority who gamble go to their local club or pub each week and spend a limited amount of money, have a cheap meal and socialise with their peers. As increasingly the baby boomers—of which we all probably are members—retire, they will utilise the clubs and pubs as social venues to keep in touch with others and take advantage of the wide range of facilities available. It is the height of snobbery to denigrate those establishment, which are an important part of people's lives. Some years ago when my mother came to New South Wales from Victoria a few times a year, the first thing she wanted was to visit Mary McKillop's shrine on the North Shore and then for me to take her to the nearest club so she could play the pokies for an hour or two.

At that stage, because of somewhat wowser policies, poker machines were banned in Victoria. She did not spend her entire budget, or indeed mine, on the poker machines. She would spend $5 or $10 on the pokies, have a Pimms and leave. That is what the vast majority of people who play poker machines in clubs do. They are not ruining their homes. I have a fundamental belief that we have to be careful about forcing people to follow certain forms of behaviour that are contrary to what they want to do and can do without harm. I acknowledge the need for harm minimisation programs. But we do not need to beat people over the head. The vast majority of people who visit pubs and clubs act responsibly. They are not victims of a global or capital conspiracy. They want to play poker machines, they want to have a social drink.

The Hon. Ian Cohen: Do you deny there is a problem with addiction?

The Hon. IAN MACDONALD: I said there are some problems and that harm minimisation programs need to be put in place. There is no question about that. But the vast majority of people who visit clubs act in a very responsible way. Clubs and pubs are a very important part of local communities. The Government will move amendments in Committee to rectify some minor problems that have been identified with the bill. Because of the size and complexity of the Gaming Machines Bill, it was inevitable that there would be some drafting anomalies that would require correction. The fact that these anomalies have been identified while the bill is still before the Parliament has provided an opportunity to rectify the problems now rather than in the next statute law bill. The Government will not carry forward at this stage one amendment that was called for by Clubs New South Wales. Club representatives sought an amendment to allow clubs to move to other premises without forfeiting poker machine entitlements.

Clause 20 of the bill generally provides that the transfer of poker machine entitlements to another set of club premises would require one entitlement in three to be forfeited. Clause 21 provides that forfeiture does not apply if entitlements are moved to new or additional premises of a club within one kilometre of the initial premises. The Government has seriously considered the request by the club industry to permit transfer without forfeiture when a club moves to new premises anywhere in the State, and not merely within a one kilometre radius. While the Government does not intend to move a an amendment on this particular matter at this stage, I am advised that the Minister for Gaming and Racing has undertaken to keep the situation under extremely close review.

The bill seeks to put in place an orderly and comprehensive system for the acquisition and disposal of gaming machines in the new capped gaming machine environment. However, it is not the Government's intention to cause serious disadvantage to clubs that are or may be in a genuine position of hardship. Accordingly, I am informed that the Minister will ensure that if any cases of concern are brought to his attention in the future, the Minister will give every consideration to an amendment to modify the forfeiture requirement in these particular circumstances. During the course of this debate, honourable members raised a number of important issues. I would like to deal with those matters now. Honourable members wanted to know whether the Department of Gaming and Racing had the resources to implement the proposed changes. The Treasurer has approved the allocation of additional operating funds that are required to implement the gaming machine reform package. Additional funds have been approved for 2001-02 and 2002-03 and for each year thereafter. It is anticipated that approval will be given for additional capital funding to implement the necessary changes to the Department of Gaming and Racing management information systems in the very near future.

Honourable members also asked the purpose of requiring clubs to provide additional information in their annual report to members. A registered club is a community-based organisation. The financial affairs of a registered club are required to be conducted in the best interests of the club's members. No individual should profit from the operation of the club, other than by way of reasonable recompense for employment or for expenses that are reasonably incurred. To ensure that members are provided with information that they can use to make a judgment about whether the financial affairs of their club are being conducted in their best interests, the bill provides that additional information will have to be included in a club's annual report to its members. The additional information includes disclosure of the salary and other benefits of the five highest paid employees who receive a remuneration package in excess of $100,000 per year; a report on overseas visits undertaken by directors and employees in their capacity as director or employee, with the main purpose highlighted and details of the cost of the trip, including details of other persons travelling in the same party as the director or employee where costs are wholly or partially met by the club; a club's gross gaming profit from gaming machines during the year; the amount allocated to community development and support expenditure during the year; and a report on all financial interests in licensed premises of a club's directors, secretaries and five highest-paid executives. The bill will require clubs to provide the Liquor Administration Board with this information within one month of their annual general meeting.

Some speakers suggested that the Government was addicted to gaming revenue. Despite what the Opposition would like to have people believe, the Government does not intend to financially benefit from these gaming reforms. We have made a decision to pursue further gambling harm minimisation measures rather than increase gaming tax rates. When the gaming reform measures were announced, the Treasurer announced that the current rates of gaming tax for both clubs and hotels would be maintained for three years. One would expect that a government addicted to gaming tax revenue, as the Opposition likes to suggest this Government is, would increase gaming tax rates rather than maintain them at the current rate for a period of three years. The Opposition has also raised a proposal to establish a gaming commission. The Opposition said that the gaming commission would determine fundamental policy matters, such as, the level of gambling permitted in the future. However, the Independent Pricing and Regulatory Tribunal noted:

> Under the Westminster system of Parliament, it well accepted that governments should be held accountable by the electorate for significant policy decisions which impact on the well-being of the community.

As to the Government's gambling harm minimisation achievements, clearly, there is significant community concern about the adverse social consequences associated with problem gambling. In response to this difficult issue, three key strategies have been pursued by the Government to achieve an overall harm minimisation policy approach. The key strategies pursued by the Government are: funding of research, awareness, education, counselling and treatment programs through the Casino Community Benefit Fund; fostering individual industry initiatives; and ensuring a proper level of regulatory control. To date, more than $46 million has been allocated to specific gambling research, education, and counselling and treatment projects. The Government recently launched a five-year strategic plan that will result in better co-ordination and greater access to gambling-related treatment and counselling services for problem gamblers and their families in New South Wales. Strategies under the plan will also increase community awareness about problem gambling and the availability of treatment and counselling services.

Two other important strategies, industry initiatives and regulatory controls, have also been pursued by the Government. The results of the patron care initiatives, which have been developed by clubs, hotels, the Sydney Casino, TAB Limited and others, have been encouraging. These initiatives include the development of codes of practice, individual house policies and self-exclusion schemes. The third key strategy in the Government policy approach involves ensuring that proper regulatory controls are in place. These initiatives focus on limiting access to gaming and wagering through restrictions on age, location and times of play, imposing controls over the promotion of and access to gaming and wagering facilities—for example, advertising, availability of credit and location of cash dispensing facilities—and restricting the number of gaming machines operating in clubs and hotels.

The Gaming Machines Bill implements the Government's gaming reform package. The bill contains further gaming harm minimisation measures. Collectively, the Government's harm minimisation measures represent a very significant commitment to ensuring that the benefits associated with gambling are not eroded by the significant potential for harm arising from its abuse. A number of honourable members have asked why the ban on 24-hour gaming in hotels and clubs does not apply to the casino. The answer is simple. The Government is constrained from ensuring that a level playing field applies to clubs and hotels with gaming machines, as well as the casino, because of binding contractual arrangements entered into by the then Coalition Government at the time the casino licence was granted in 1994.

The fact of the matter is that Star City Casino paid the former Coalition Government in excess of $250 million for its casino licence, and the licence that was issued by the Casino Control Authority during the time of the former Government provides the casino the right to operate 24 hours a day, seven days a week. While the Carr Labor Government would prefer to apply the same closure period to the gaming machines in the casino as applied to hotels and clubs, it is effectively locked into the arrangements that were put in place well before it came to office. In relation to the point about local councils having a say when it comes to gaming machines, one of the points raised by the Hon. Dr Arthur Chesterfield-Evans, a number of Sydney councils have indicated their intention to amend their local environmental planning instruments in order to restrict the capacity of registered clubs and hotels to install gaming machines.

The Government is of the view that it is in the best position to regulate the availability of gaming machines in New South Wales through the Gaming Machines Bill and the Gaming Machines Regulation. The Government acknowledges that local councils should be given the opportunity to have a say about the likely economic and social impact of additional gaming machines in their local communities. As a consequence, it is proposed that the Gaming Machines Regulation will provide that an applicant will be required to provide a copy of a class 2 social impact assessment [SIA] to the relevant local consent authority inviting written submissions to the Liquor Administration Board. It is also proposed that regulations will provide that the board must take into account any written submissions made on a class 2 SIA by a local council.

As councils will be given a significantly louder voice in decisions about future placement of gaming machines through these proposed enhancements to the SIA, it is not considered appropriate that councils be able to frustrate gaming machine operations through the use of their planning and consent powers. Therefore, the bill provides that an environmental planning instrument under the Environmental Planning and Assessment Act 1979 cannot prohibit or require development consent for or restrict the installation, keeping or operation of gaming machines in hotels and registered clubs. The bill also restricts the ability of councils to impose conditions on development consents in relation to gaming machines. With those comments, I once more thank honourable members for their contributions to the debate and commend the bill to the House.

Motion agreed to.

Bill read a second time.

ASSENT TO BILLS

Assent to the following bills reported:

Public Finance and Audit Amendment (Auditor-General) Bill
Children and Young Persons (Care and Protection) Amendment (Permanency Planning) Bill
National Parks and Wildlife Amendment (Transfer of Special Areas) Bill
Local Government and Environmental Planning and Assessment Amendment (Transfer of Functions) Bill
Workers Compensation Legislation Further Amendment Bill

RESIDENTIAL TENANCIES AMENDMENT BILL

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (SKI RESORT AREAS) BILL

Bills received.

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

Motion by the Hon. Michael Egan agreed to:

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

Bills read a first time.

FISHERIES MANAGEMENT AMENDMENT BILL

Message received from the Legislative Assembly agreeing to the Legislative Council's amendment.

PARLIAMENT HOUSE COMPUTER SECURITY

Report

The PRESIDENT: I table a report of the Clerk of the Parliaments dated 6 December 2001 relating to a computer incident in the Parliament

Ordered to be printed.

TABLING OF PAPERS

The Hon. Michael Egan tabled the following papers:

(1) Administrative Decisions Tribunal Act 1997—Report of Administrative Decisions Tribunal for year ended 30 June 2001.

(2) Law and Justice Foundation Act 2000—Report of Law and Justice Foundation for year ended 30 June 2001.

(3) Law Reform Commission Act 1967—Report of the Law Reform Commission entitled "Surveillance: An Interim Report", dated February 2001.

(4) Legal Profession Act 1987—Reports for year ended 30 June 2001:

Law Society of New South Wales
Committees of the Law Society of New South Wales.

PARLIAMENTARY REMUNERATION AMENDMENT BILL

Second Reading

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [5.26 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Parliamentary Remuneration Amendment Bill 2001 amends the Parliamentary Remuneration Act 1989 so as to clarify that the traditional arrangements regarding the use and nature of members' electoral allowances continue to apply. The Bill also amends the way the Tribunal receives and considers the advice on the financial implications of its determinations from the Secretary of the Treasury.

In 1998 the Parliamentary Remuneration Act was amended to ensure that an independent Tribunal makes binding determinations about a wide range of members entitlements. The Act was also amended to include a definition of parliamentary duties and, to ensure fiscal responsibility by requiring that prior to making a report of a determination, the Tribunal is to obtain a statement from the Secretary of the Treasury as to the financial implications of the determination. This statement is required to be published as an annexure to the determination.

In December 1999 the Tribunal made its report and initial determination on members additional entitlements—the first since the act was amended. It was to take effect from 1 January 2000.

That determination made changes to the way members additional entitlements were treated. The most significant change was the requirement that the unused portions of electoral allowances be reimbursed to the consolidated fund at the end of each financial year.

Following representations from the Legislature and members pointing out the significant number of changes required to be made by the Legislature to accommodate the new aspects of the determination, the Tribunal agreed to defer its implementation.

Parliamentary staff and members also expressed concern that the nature of the changes would result in an unreasonable administrative burden In particular, the requirement to reimburse the unspent portion of the electoral allowances would have required detailed accounting to keep track of every single item of expenditure. It would have required an increase in staffing in the Legislature to administer the new scheme, including checking each item of expenditure for every member. Also, the proposed new treatment of electoral allowances would have seen it subject to fringe benefits tax for the first time. This additional cost would have been met by the Legislature.

The Tribunal undertook a wide ranging review of the concerns raised by the legislature, members and others. This review coincided with the 2000 annual review of members entitlements. This review process involved consultations with members, their

parliamentary parties, the ICAC, Treasury the Crown Solicitor and the Premier's Department. Senior Counsel appeared before the Tribunal, making submissions as to the interpretation of the legislation with regard to the requirement for members to repay the unspent portions of electoral allowances and other matters.

Following completion of those hearings the Tribunal issued a report and draft determination for comment. Following receipt of comments the Tribunal issued its report and determination in December 2000.

The 2000 determination had regard to a range of issues of concern to the Legislature and members. It made a number of changes to provide members with greater flexibility in the use and management of their entitlements. Most significantly, it reversed the earlier decision to require members to reimburse the unspent portion of their electoral allowances.

In doing so the Tribunal chose to make no interpretation of the legislation as it presently stands.

The reason for the reversal on this matter is contained in the Tribunal's report. At page 26 the Tribunal states:

> *"The Crown Solicitor has made clear that the obligations which arise with respect to Members' use of electoral allowances derives directly from the Act, without any requirement or particular need for the Tribunal to regulate the question by determination."*

The Tribunal further states:

> *"any obligations as to the repayment of the unspent portions of allowances falling on Members will be confined to those specifically deriving from the statute. The Tribunal did not intend in its initial determination, and will now avoid by this approach, any superimposed (and additional) obligations arising out of any determination made by the Tribunal over those created by statute (which may have the potential of creating unintended adverse consequences)."*

The Tribunal has restored the traditional arrangements in respect of this allowance by removing the requirement to repay the unspent portions of electoral allowances. The Government has decided that it will address the issues raised by the Crown Solicitor by legislating to retain the historical practice in respect of the electoral allowance – a practice common throughout all jurisdictions in Australia.

This Bill makes clear the intention of Parliament. The provisions of the Bill remove the uncertainty about the use of the electoral allowance. The Bill restores the historical treatment of the allowance.

The Bill provides that the Tribunal will only determine the quantum of the allowance.

The Bill makes a separate provision for electoral allowances and states explicitly that electoral allowances will be paid as compensation in respect of all incidents of the performance of parliamentary duties. In other words it is intended to compensate for all aspects of a member's responsibilities in his or her electorate and not merely for the more narrowly focussed expense reimbursement.

This amendment does nothing more than provide greater certainty that members may continue to receive their electoral allowances as they have since their introduction in 1956. The Bill articulates in a clearer way that members are entitled to retain their electoral allowances. Members will continue to acquit the unspent portions of the allowance with the Taxation Commissioner, as has historically been the case. It treats electoral allowance no differently than is the case in Federal and other State and Territory jurisdictions.

Electoral allowances will not count for superannuation purposes.

The Bill also provides a transitional provision to ensure the clarifying amendments apply to the electoral allowances payable under the current determination.

The Bill also adjusts the way the Tribunal receives advice from the Secretary of the Treasury as to the financial implications of its determinations. The new section will require the Tribunal to seek the views of the Secretary of the Treasury and take those views into account before making its determinations. The Secretary's statement will continue to be published as an annexure to the determination.

This is a minor change made at the request of the Tribunal.

The legislation, as it is currently worded, requires the Tribunal to make its determination, seek a statement from the Secretary of the Treasury as to its financial implications and then append the statement as an annexure to the determination.

The Tribunal's determinations need to be fiscally responsible given the impact they would have on the State's finances. The Tribunal recognises this and, in proposing the amendment, has not sought to deny the Secretary of the Treasury the opportunity to comment on the financial implications of its determinations. Only that it should receive and consider this advice before making its determinations. This advice would continue to be published as an annexure to the determination thus maintaining the existing transparency and accountability arrangements.

The Government believes that this Bill will provide the certainty in respect of electoral allowances that members have been seeking and makes the minor changes sought by the Tribunal regarding receipt of financial advice from the Secretary of the Treasury without compromising the existing accountability arrangements.

I commend the Bill to the House.

The Hon. JOHN RYAN [5.26 p.m.]: The Opposition supports the bill, which seeks to do two reasonably simple things. One is to clarify the legal status of the electoral allowance of members and to ensure that it operates in the way it has done since 1956. The amendment in the bill rectifies an anomaly in the understanding of the previous procedure in relation to certain allowances and, as I understand it, also follows a recommendation from the Parliamentary Remuneration Tribunal. The bill also has the support of the Coalition in regard to the second objective it seeks to achieve.

Currently, the Parliamentary Remuneration Tribunal has to make a determination and then send the determination to the Secretary of the Treasury in order to find out its financial implications. It is obviously wise that the Parliamentary Remuneration Tribunal should be able to obtain that information prior to the determination so that the current arrangements will enable the tribunal to receive that advice and then make its deliberations accordingly. In the view of the Opposition, the tribunal is operating very effectively and transparently to the benefit of not only members but also the people of New South Wales. The Opposition does not oppose the bill and would seek to have it passed by this House without amendment.

Ms LEE RHIANNON [5.27 p.m.]: The Greens oppose this bill because it legitimises an unaccountable backdoor pay rise for members of Parliament. What is more deceitful than parliamentarians setting up the legislative tools that will prevent accountability of their allowances and salaries? That is effectively what we have here and what we will soon vote on. The bill is an attack on our democracy, as it is based on deceit. It undermines the democratic process because, once again, people will see members of Parliament using the law to hide what is their true outcome. So we have one law for ourselves, members of Parliament, and one law for everybody else. When it comes to determining incomes and allowances, it is very unhealthy.

We all know that the Carr Government has become arrogant and lazy, so we would expect it to push this legislation, but I have to ask: What is happening with the Coalition on this one? It is truly surprising that the Coalition would seek to pick the pocket of the electorate in this way. Does the Coalition not want to win? Seriously, it has an issue here whereby it could carve out a bit of turf for itself. On law and order, the Coalition is being squeezed and has no hope. But on this issue the Coalition should show some integrity and take a stand that would differentiate the Coalition from another old party and show that members of the Coalition still have a passion for democracy and for making sure that the business of the Parliament is conducted in a proper way.

All honourable members know in their hearts that the electoral allowance is intended to pay for expenses incurred in representing an electorate, not as an additional and grubby source of income for a member. An electoral allowance is what those two words say, namely, an allowance that is to be used by honourable members when they are carrying out their work when servicing their electorates. The Greens will note with interest how honourable members vote on this issue. It is not hard to imagine that the old parties will be lining up in the usual way when it comes to parliamentary remuneration. There is a bit of fudging going on here—I suppose that is the most polite description I could use—because one of the changes proposed in schedule 1 will ensure that the electoral allowance received by honourable members is payable as compensation in respect of "all incidents of the performance of parliamentary duties".

An electoral allowance is not meant to be compensation. It is an electoral allowance to cover expenses that honourable members incur when carrying out their work. We are compensated for the expenses incurred in performing our work, but compensation per se is a totally different concept. Language is being used in an attempt to legitimise a practice that has been outed by the Greens over the past year or so. I refer to a major con job that has been perpetrated on the people of New South Wales in the form of an allowance given to honourable members. I imagine that by far the majority of honourable members use their allowance in a legitimate way; but members of Parliament do not know and members of the public do not know whether members of Parliament are taking a backdoor pay rise. Currently members of Parliament are paid well. Some honourable members do not think so, but I personally think, and the public know, that $95,000 is a very good salary. But if members of Parliament are able to obtain additional money from their electoral allowance that the public does not know about and that no-one else knows about, there is something deeply wrong with the bill. That honourable members would vote in favour of such a proposition is an absolute outrage. I re-emphasise the point I made earlier: That type of practice undermines democracy.

As I travel throughout this State to carry out my work as a member of Parliament, and while working for the Greens, I find great enthusiasm for and interest in the political process but I also come across a great deal of cynicism. The basis of the cynicism is the notion of members of Parliament having their snouts in the trough. I emphasise that while I do not know, I believe that is not the case. However, that perception exists. By

honourable members passing a bill to provide for increased remuneration, we are contributing to the development of that perception. What we should be doing instead of passing this legislation is finding a way to clean up the process. To clean up the process for payment of the electoral allowance, two things must be done: One is to require parliamentarians to say how the money is used. After all, the money is provided to assist honourable members to carry out electoral work. In common with anybody else who receives an allowance, members of Parliament should account for how the money is used.

If members of Parliament do not use the whole allowance, the money left over should go back into the public coffers rather than become part of a member's salary. That is what we should be discussing right now. If that were done, this Parliament would receive accolades and we could be seen to be leading the way for other Parliament in Australia to adopt the same practice. I understand that a similar electoral allowance process operates at Federal and State levels throughout Australia. Surely we should be cleaning this matter up. I argue that politicians cannot complain about being treated with disrespect in the community if we do not clean up our act. All honourable members know that the basis of community cynicism is not just the electoral allowance problem. We know that many other factors are undermining the standing of members of Parliament and the political process in general in this country. Reforming the practice of electoral allowance accountability is one way in which members of Parliament can clean up our act. Certainly more needs to be done, but let us at least begin the process.

The Greens support the existence of an electoral allowance but unfortunately we believe that this bill subverts the allowance. In doing so, the work performed by members of Parliament is weakened. If the honourable members do not spend their electoral allowance in the course of working for their electorate, that should be the end of the matter and the money should be returned to the public purse. Self-evident integrity is the consistent position adopted by the Greens members of Parliament. The Greens have adopted a code of conduct for members of Parliament. The code sets out various provisions including one that relates to the management of an electoral allowance. The Greens position is based on the matters I have mentioned in my speech. The Greens suggest that the practices I have mentioned should be adopted by this Parliament.

The Hon. Duncan Gay: Should you always preference the Labor Party?

Ms LEE RHIANNON: I acknowledge the interjection by the Deputy Leader of the Opposition and point out that the Greens do not always give preferences to the ALP. I am pleased that the Deputy Leader of the Opposition mentioned that, because the Coalition knows it has no hope.

The Hon. Duncan Gay: I appreciate that. I wanted that on the record.

Ms LEE RHIANNON: I love interjections by the Deputy Leader of the Opposition because we can get them into the record. The Coalition has no hope. Coalition members should note that as we approach the next State election the Labor Government will have a real problem. The Labor Government knows that the Greens preferences can be exhausted, and there is quite rigorous pressure around to just vote 1. That is why the Coalition should listen, and Labor should worry. Matters could play out in a very interesting way, but I will leave that message for the moment.

The Hon. Michael Egan: You do not believe in horse-trading, do you?

Ms LEE RHIANNON: No, the Greens never engage in horse-trading. The Treasurer knows that. My colleague the Hon. Ian Cohen made that a very clear principle when he was elected to this Parliament in 1995. He clearly stated that no deals would be done and that the Greens would stand by their principles. That is why, whenever an extra vote is needed for particular legislation, the Treasurer does not pad along the corridors to knock on the Greens door to arrange an exchange deal that involves different legislation. One of the best examples of that occurred last week when the Workers Compensation Legislation Further Amendment Bill was passed in this House. The bill was passed late last Thursday night and in the *Daily Telegraph* the next day there was a story about shooting being allowed on public land and in State forests. As we all know, an honourable member of this House has worked very hard to achieve that. He was telling everybody a couple of days before the workers compensation legislation was passed that he had had a win. Time and time again he gives his vote to the Government to ensure that the Australian Labor Party has the necessary numbers. The Greens do not engage in horse-trading.

The Hon. Doug Moppett: That is because you have a string of camels with you.

Ms LEE RHIANNON: I acknowledge the interjection by the Hon. Doug Moppett. I always enjoy his contributions from the back bench and from the table. His comments are most entertaining. It is clearly necessary for funds to be made available for members of Parliament to pay for electoral work. Any member of

Parliament who works hard—and I believe that most members of Parliament work hard—inevitably will incur costs associated with that work. Other allowances such as the logistical support allowance [LSA] are of similar value, but cannot be used for all types of expenses. In the Greens office, we often run out of LSA funds so we use the electoral allowance as one of the ways in which to continue to cover our costs.

Already it is obvious that there is a contradiction. For one allowance a full account has to be rendered of the way the money is spent, and the money that is not spent does not end up in the pay packets of members of Parliament. In contrast, it is extraordinary that the electoral allowance can go into the pay packets of members of Parliament, if that is what they want to do with it. And who knows? The public will never know the real income of members of Parliament. When the Greens discuss this issue the question frequently arises about how many members of Parliament receive an income in excess of $100,000. Who would know? We simply cannot obtain that information. The information is not clearly presented to us because there is no requirement for it to be presented.

The fundamental problem is that the Parliamentary Remuneration Tribunal [PRT] has been nobbled. The tribunal brought forward the very suggestion that is outlined in the Greens code of conduct and that I have been suggesting throughout this speech: the payment of an electoral allowance, explanation of how it is spent, and if it is not spent it is paid back into the public purse. When the PRT made that recommendation there was a huge outcry in this place. It was highly embarrassing, with so many submissions saying that this should not be adopted.

The Hon. John Ryan: Two.

Ms LEE RHIANNON: I acknowledge the interjection of Mr John Ryan. He said that there were two. If there were two—maybe I am mistaken—they would have been from the two major parties, so would have carried a lot of weight. Members of the two major parties were screaming that the suggestion was not fair and that the previous situation should apply. What happened? Tragically, the PRT rolled over and went back to the old system. However, the bill presently before us takes things a little further. The PRT has effectively been rapped over the knuckles. It has been nobbled. If the bill is passed not only are we enshrining the backdoor method of paying MPs; we are also preventing the PRT from tightening up the way the electoral allowance operates and from bringing forward once again that provision that MPs have to say how they spend the money, and if they do not spend the money they should put it back in the public purse. If we pass this bill the PRT will not be able to do what it attempted to do about a year ago. That is why what is going on here is so wrong.

As I said, this is something that the Greens feel very passionately about. We need to be publicly accountable about all aspects of public money used. Let us remember that our allowance and our income come from the public purse. We should consider how the rest of the community is doing it. Let us think of a few comparisons. We are paid well—$95,000 per annum or $1,759 per week is the base rate. That is greater than the income of the great majority of the people in this country. At the moment our base rate of pay is equivalent to more than three times the earnings of the average female worker in Australia, $505 a week. Members from the country get the generous Sydney allowance. As well as the logistical support allowance and the electoral allowance there is the Sydney allowance, which is worth $441 per week, if a member claims it for the whole period. That is $25 more than the average labourer earns. On top of this, the logistical support allowance gives us up to $565 each week, or more than twice the average earnings of a female service industry worker.

Lastly comes the valid and necessary electoral allowance, which is up to $1,215 weekly, or more than the earnings of the average Australian manager, which I understand is about $1,205 a week. This is not enough for the converging major parties, given what they are doing with the electoral allowance. It is just going too far. I find the hypocrisy and cowardice on this issue extraordinary. There have been a few interjections but I put on record that I heard Mr John Jobling telling his troops not to interject. That is fair enough. There might be a new-found respect toward the running of the House, but considering what happened in question time a couple of hours ago I doubt it. I think it is because they really know that they have to watch themselves. But it should not be just with interjections and what is said in debate; they need to clean up their act. The Opposition had a chance to carve out a bit of turf for itself as having integrity and working to clean up the political process, and to separate itself from Labor. At the moment it has nowhere to go because Labor is doing so much of the work that the Coalition has traditionally done in this place and with the big end of town.

If my fellow members believe that they are hard done by, that around $2,000 a week is not enough pay, for goodness sake they should be honest and say that. They should argue for a pay rise. That would be more legitimate rather than doing the backdoor number, which is what this is all about. It is a backdoor pay rise if

members do not acknowledge that they are getting it. All of us sitting here might be taking our electoral allowance as pay. Who knows? Nobody ever knows, probably not even the person sitting beside us from our own party actually knows what is going on with our pay.

The Hon. Peter Breen: I know.

Ms LEE RHIANNON: I acknowledge the interjection by Mr Peter Breen. I understand that he has not spoken yet. I hope that he will tell us what he knows. The integrity of the electoral allowance needs to be strengthened so that members cannot pilfer it for private gain. Again, that is the essence of what is going on here. Let us remember that members who vote for this bill are voting to undermine public faith in them as MPs and public faith in the whole democratic process. When members are voting they should really think about that. We already know how the vote will go: a whole of people will be sitting on one side of the Chamber and a few—I am not sure how many—will be sitting on the other side of the Chamber. But that is what we are voting for, and it should weigh very heavily on our shoulders. We are in the year 2001. It is time we cleaned up our act on this issue, and we should be doing it together. That is how we should be working. It has gone on for too long. Members have been outed on this one and it really has to change. Certainly, having to account for how we spend our electoral allowances, having to keep receipts and do the work, would impose an administrative burden. We all know that, but we have staff. We just have to get organised, and we can do it. It is how the rest of the world has to—

The Hon. Duncan Gay: You have staff; we do not. You are a special case.

Ms LEE RHIANNON: I acknowledge the interjection. Poor Mr Jobling must be getting very worried. He ordered his troops not to interject but they are doing it. But good on you, Mr Gay, for doing it. Mr Duncan Gay said, "You have staff." He has staff too. Maybe we have two; he has one, but he has a whole party.

The Hon. Duncan Gay: So have you.

Ms LEE RHIANNON: Excuse me, but you have a whole party in this House, a whole number of members. Clearly, it is becoming a bit of a painful issue for the Nationals with their dropping numbers. It is becoming a bit embarrassing now that they are down to four, but what are they down to nationally after the last election when the conservatives are supposed to have done so well? I think, Mr Duncan, you are down to 12, the lowest number since 1946—

The Hon. Duncan Gay: Mr Gay, thank you.

Ms LEE RHIANNON: Sorry, Mr Gay. I apologise. That was my fault.

The Hon. Duncan Gay: You have a lot to apologise for. You have all your figures wrong.

Ms LEE RHIANNON: Is it not down to 12? Do you deny that, the lowest since 1946?

The Hon. Duncan Gay: Are you going to talk about the bill?

Ms LEE RHIANNON: Watch your interjections. Mr Gay might be worried because his party's numbers are going down and down. He might soon not have many members on his side if the trend continues.

The Hon. Doug Moppett: We will look after that. You do not have to worry about that.

Ms LEE RHIANNON: Yes. Having to worry about how we spend our electoral allowance is an administrative burden. But that is what everyone has to do.

The Hon. Patricia Forsythe: We account for it to the tax man all the time.

Ms LEE RHIANNON: Yes, we do have to account to the tax office, but as parliamentarians we also need to tell the public. If you are getting a pay rise because you do not use all your electoral allowance, surely the public have a right to know.

The Hon. John Ryan: They know already.

Ms LEE RHIANNON: The public do not know if you have had a pay rise on this one. The administrative burden is there, but it needs to be dealt with. If members are going to complain about having an

administrative burden, they should talk to the owner of a small business who has to fill out a business activity statement, or a public school principal who spends countless hours managing the books to deal with the global budgeting system now in place. Members who think that their paperwork is burdensome should try telling that to plumbers who do work at their houses; they will not get much sympathy from the plumbers. Many people are bogged down with massive amounts of paperwork. When I speak on this topic I am inevitably asked how I deal with my electoral allowance, and I am happy to place that on the public record. My allowance is paid into a separate account, and I urge all members to do that. My allowance is separated out, so it is not mixed in with my wages.

My electoral allowance is spent on a variety of things, similar to the way that we use the logistical support allowance. It is administered by a member of my staff and myself. The accounts that we keep are regularly presented to our party and are public documents. They are made available to members, supporters, media or anyone who asks us how we run our operations. It is a simple system and one that all members could follow. We should put this into law, in place of the dodgy legislation that we now have. The Greens position is not a radical one, and not something that people should become agitated about. Our commonsense position is about proper accounting practices and bringing integrity to members of Parliament and how they and the whole political process are viewed by the electorate.

All members are on notice that the Greens will highlight how they vote and how they stand on this bill and what they have to say. This issue is similar to one that Reverend the Hon. Fred Nile feels very strongly about, that is the prayers that are said in this House. We can clean up this place in many ways. This bill is in keeping with life in the twenty-first century and we will return to its contents again and again because the time will come when parliamentarians do the right thing. Parliamentarians are obliged by law to do the right thing and the Greens will consistently fight for this, because at the moment the major parties are doing a disservice to the whole of the State by compromising the political process. It is absolutely tragic that Coalition members are sniggering and laughing about this.

The Hon. Duncan Gay: No-one is sniggering or laughing, but you are verballing people.

Ms LEE RHIANNON: No, I am not. Some members behind the Deputy Leader of the Opposition are laughing. That is unacceptable, because this is a very serious matter and needs to be handled with great integrity and seriousness. What the Government is doing to this House, to this Parliament and to the political process is absolutely outrageous.

The Hon. PETER BREEN [5.54 p.m.]: There must be something in this bill that I have missed, because I did not think it was nearly as serious as Ms Lee Rhiannon would suggest. However, there are some anomalies that certainly need to be addressed. The electoral allowance is described in the most recent determination of the Parliamentary Remuneration Tribunal as remuneration to cover additional costs associated with the performance by members of their parliamentary duties. In that determination I was unable to find out how the allowance affects members of this House who do not have electoral offices and do not have constituents in the sense that lower House members have in the course of their parliamentary representation. Members of this House might seek to be accountable and seek to justify their existence to people outside the Parliament, but if we get an additional payment of $38,195 each year, even though that provision has been there for a long time, and we do not have an electoral office as such, how do we explain how we spend the money? That is a legitimate question, and the question to which Ms Lee Rhiannon perhaps should have directed her attention. In reality that amount is treated as part of our gross income, there is no question about that.

The Hon. John Ryan: It always has been.

The Hon. PETER BREEN: Yes, it always has been, as the Hon. John Ryan said. However, in my opinion that amount is properly taxable at its source. I realise that that is probably a minority view. The Clerks have an opinion to the contrary: that members are entitled to take the allowance as a gross sum and pay tax on it in due course. I am told that the contrary opinion has withstood examination by the Australian Taxation Office. Although I am not clear about accountancy matters, there is a difference between payments received and payments made. Our allowance is a legitimate way for us to be paid. Each month we receive one-twelfth of that amount in our pay packets and we do not have to justify how we spend it. We are not required to refund any unspent portion.

The Hon. Patricia Forsythe: But we do have to justify it to the tax man.

The Hon. PETER BREEN: The Hon. Patricia Forsythe is correct. This bill seeks to place this arrangement on a firm footing. It is wrong to suggest that we spend that amount incorrectly, because there is no correct way to spend it. The allowance is part of our gross income and we are entitled to spend it, in effect, as

we wish. Some honourable members will not agree with me when I say that the community has good reason to be cynical about this arrangement—and I refer to calling this amount an electoral allowance when it is an addition to our salary. Ms Lee Rhiannon used the word "hypocrisy" to describe this allowance. Some people in the community would agree with her, and would say that that is part of the way that politicians operate. That is of great concern. The reality is that few people in the workplace can grant themselves a pay rise in the way that we regularly do.

The Hon. Patricia Forsythe: No, it is a flow-on.

The Hon. PETER BREEN: But we are the ultimate authority, we are the Legislature, we make the rules. We are debating a bill to confirm our pay. What else is it, except giving ourselves a pay rise?

The Hon. John Jobling: Our pay is determined by an independent tribunal.

The Hon. John Ryan: The amount is not altered, we have received it in this form since 1956. How is it a pay rise? It does not add to our pay.

The Hon. PETER BREEN: It is a pay rise, based on the determination of the tribunal in 1999. At that time the tribunal said that if we do not spend our electoral allowance we have to refund it.

The Hon. John Ryan: No, it did not.

The Hon. PETER BREEN: Yes, it did. I just read the determination, 10 minutes ago.

The Hon. John Ryan: It was published as a draft and the determination was not confirmed.

The Hon. PETER BREEN: Subsequently the tribunal overrode that determination.

The Hon. John Ryan: As the tribunal has the right to do.

The Hon. PETER BREEN: Yes, I agree with that.

The Hon. Jan Burnswoods: You are probably wrong.

The Hon. PETER BREEN: No, I am not wrong. The determination was made in 1999 and it said that the unspent amount had to be refunded.

The Hon. Jan Burnswoods: It was not a determination, and it was not made by us. You are wrong on two counts.

The Hon. PETER BREEN: No, I am not. I am correct on the fact that the determination was made in 1999.

The Hon. Jan Burnswoods: No, that was a draft.

The Hon. PETER BREEN: You can call it a draft or you can call it a horse, but it was a determination. I will express it in these terms: There is no other group anywhere in the community or in the work force that sits as we do and discusses its own income and remuneration and then passes laws on it. No-one else does that.

The Hon. John Ryan: A board of directors does something fairly similar.

The Hon. PETER BREEN: But boards of directors are not accountable to the community in the same way that we are, and that is my point.

Ms Lee Rhiannon: And they do not deal with public money.

The Hon. PETER BREEN: And it is not public money, that is the other aspect of it. I agree with Ms Lee Rhiannon that we have every reason to be concerned. I have referred on other occasions to a survey carried out by *Reader's Digest* earlier this year.

The Hon. John Ryan: That is a fountain of knowledge.

The Hon. PETER BREEN: The Hon. John Ryan says it is a fountain of knowledge, but it is a fair reflection of what the community thinks.

The Hon. Jan Burnswoods: I think he was being sarcastic.

The Hon. PETER BREEN: Yes, and the Hon. Jan Burnswoods attacked it earlier and said that one cannot trust *Reader's Digest*. However, the reality is that *Reader's Digest* reflects what the community thinks. People who subscribe to it were asked to list the professions that were the most credible and, sure enough, politicians came at the bottom of the list. One reason for that is that we are seen to have our snouts in the trough. What concerns me about this bill is that it adds to this store of ill will harboured by the community against politicians. It is a case of one rule for the privileged and another for the people we are supposed to represent—at least that is how we will be judged by the newspapers and radio journalists when this bill is passed. People will say, "There are those politicians, doing it again, looking after themselves", even if it is not true. I agree that it is not true.

We are condemned by our own actions because we are seen to be overriding the decision of the umpire, and that is the problem. The Parliamentary Remuneration Tribunal is regarded as the umpire and we are seen as overriding the umpire's decision. In fact, many allowances are paid to other workers in other fields that are not required to be justified, and this is where I disagree with Ms Lee Rhiannon. For example, in the building industry a worker might receive a productivity allowance, a site allowance, a height allowance, a travelling allowance, and a wet weather allowance, and the list goes on, and none of these workers are required to explain how they spend their allowances. The difference between building workers receiving their allowances and not having to justify them and parliamentarians receiving allowances and not having to justify them—

Ms Lee Rhiannon: They get $30,000 or $60,000, do they?

The Hon. PETER BREEN: Forget about the money. The principle is that we are seen to be making the rules. Forget about the Parliamentary Remuneration Tribunal. There is one perception that one cannot forget. The Parliamentary Remuneration Tribunal decided in December 1999 that members of Parliament should refund any unspent portions of their electoral allowances. Call it a draft or whatever you like; that is what it determined. In its determination of 4 December 2000, one year later, the tribunal reversed that decision.

The Hon. John Ryan: No, it then made a determination.

The Hon. PETER BREEN: Would you like me to read the briefing note?

The Hon. John Ryan: It did not reverse the decision. It published a potential determination and then it made a determination, which did not include those details. The determination you say was reversed was never made. It is significantly different.

The Hon. PETER BREEN: The Government briefing note signed by Bob Carr, Premier, and Minister for the Arts stated:

> The Tribunal's determination of December 1999 required that members repay the unspent portions of their entitlements. In its determination of 4 December 2000 the tribunal removed the requirement for members to reimburse the unspent portions of their electoral allowances. The reason for the reversal—

The Hon. Duncan Gay: Bob Carr is wrong.

The Hon. PETER BREEN: Okay, Bob is wrong. Someone certainly is wrong. The briefing note continues:

> The reason for the reversal on this matter is contained in the Tribunal's report.

And it goes on. In its determination of 4 December 2000 the tribunal clearly reversed the earlier decision, and from what I can gather it got itself in a legal tangle over the reasons for the reversal. I reread the decision today. Only a brain surgeon could make it comprehensible. I am not surprised it was reversed. The draft decision in 1999 was incomprehensible and I believe the tribunal did the right thing to reverse it. Let me be perfectly clear about that. Essentially, the bill supports the second decision of the tribunal and confirms that members are

not required to account for their electoral allowance payments, and I agree with that. In Committee the Greens will move an amendment that seeks to make members accountable for their electoral allowance payments. I note that the amendment does not go as far as the 1999 determination of the tribunal that any unspent allowances should be refunded. I think Ms Lee Rhiannon got herself into a bit of a tangle here. She said that under the Greens amendments members would have to refund any underspent portions of their allowances, but in the briefing note that came with the amendments—

Ms Lee Rhiannon: I did not say that about the amendments. I was not talking about the amendments but about our policy. That is our policy.

The Hon. PETER BREEN: Ms Lee Rhiannon certainly said the Greens policy was to refund the unspent portions of the allowances and I do not agree with that. I think it should be treated in exactly the same way as allowances for other workers. People in the community do not understand how politicians are paid. The situation is not transparent. We are regarded as grossly overpaid on the basis that people do not understand how the salary allowances are made up and they use this as an argument against politicians to denigrate us. The solution is to have all the allowances worked out and paid in a gross sum so that people know exactly how much we get paid.

In my opinion, instead of politicians being paid $85,000 a year they ought to be paid $250,000, which is what their real salary and allowance probably amounts to. Last night I had dinner with an executive from a cigarette company who told me that he gets between $1 million and $2 million a year. He asked how much I received and I said $85,000. Then I added up the allowances and superannuation and reached a figure of $250,000. He said it was pathetic.

The Hon. Doug Moppett: You are adding in your staff.

The Hon. PETER BREEN: I added in my superannuation. If I survive for 20 years after I leave this place my superannuation will be $1 million, and that has to be added into the salary.

The Hon. Jan Burnswoods: That is a pretty big if.

The Hon. PETER BREEN: No, it is not. It might be a big if for the Hon. Jan Burnswoods, but is not for me. I was unsure how I would vote and whether I should support the Greens amendment. However, if the amendment does not reflect the Greens policy, it is rather infra dig for the Greens to even put this amendment up for consideration, so on that basis I will not support it.

The Hon. Dr PETER WONG [6.07 p.m.]: I shall speak briefly on this matter. I support the concept of an electoral allowance, but I also believe in principle that it should be treated separately as payment for electoral work done, and that any unspent amount should be refunded. I am not talking about other members, only myself. I put my electoral allowance in a separate account so that it is accountable, and I would like to thank my wife for doing the bookwork for me. It is probably a matter of perception. I agree with the Hon. Peter Breen that politicians should receive more than we are receiving.

The Hon. Michael Egan: I would not support that view.

The Hon. Dr PETER WONG: You would not support that?

The Hon. Michael Egan: No.

The Hon. Dr PETER WONG: To be honest, I think we work very hard—much harder than I suspected before I came here. I thought politicians were very lazy but after coming here I now know otherwise. In my opinion perception is very important.

The Hon. Duncan Gay: We do not need to be paid more; we just need to be treated fairly.

The Hon. Dr PETER WONG: Then you should do as the Hon. Peter Breen suggested, use it as salary and pay tax on it as such, rather than as an electoral allowance and give the impression that it is for the electorate, when it is not. That is where the problem lies.

The Hon. IAN COHEN [6.09 p.m.]: There has been much discussion of the Parliamentary Remuneration Amendment Bill. The Greens across Australia subscribe to the ideal of transparency. I have some

sympathy for the idea of receiving a lump sum payment as the division of finances is complicated. If we received a gross salary—certainly not more than we receive at present—it would perhaps simplify the arrangements. It is reasonable to expect the electoral allowance to be used for electoral purposes, and we should acknowledge how much we spend every year. I admit that I am not very good with my books, but I report my figures annually to the Greens. Reverend the Hon. Fred Nile asked how the Greens spend their money. I have a list of how my electoral allowance is spent.

Reverend the Hon. Fred Nile: You gave the impression that you were refunding it.

The Hon. IAN COHEN: The Greens have agreed that if members of Parliament cannot demonstrate that we have spent our electoral allowance appropriately on our parliamentary work we have an obligation to refund that money.

Reverend the Hon. Fred Nile: But you don't refund it.

The Hon. IAN COHEN: If it was not spent it would be refunded.

The Hon. Duncan Gay: Have you ever refunded any money?

The Hon. IAN COHEN: No. I am certainly no economist or accountant, and I have great difficulty keeping my figures up to date. That is why I have some sympathy for the idea of a gross payment. I do not believe that members of this House are ripping off or rorting the State. That said, I present my figures to my party every year. The fact of the allowance weighs so heavily upon my conscience that I spend some $10,000 in donations and subscriptions to community groups. I have a list detailing that expenditure, which I am happy to show to everyone. I also list the remainder of my expenditure. I found my situation so difficult that I overspent by $10,000—I was a little shocked when I added up the figures. It is an extra impost in our very busy schedule.

The Hon. Duncan Gay: You have twice as many staff as us.

The Hon. IAN COHEN: The Deputy Leader of the Opposition could use his electoral allowance to take on more staff, commission some consultancy work or receive extra support.

The Hon. Duncan Gay: You said that you have trouble getting through all your work yet you have twice as many staff.

The Hon. IAN COHEN: Certainly. My staff deal directly with legislation and my work in this place. I struggle over my expenditure with my accountant—who is the only person I hire to do that task. My accountant often does not return my calls but does a wonderful job ciphering my finances. It is a difficult task, as I am sure it is for every parliamentarian. I acknowledge that the vast majority of members work hard and incur costs as a result of their activities in this place. It is certainly not hard to spend my whole electoral allowance positively and appropriately. The question is: How do we deal with the tremendous public cynicism in this regard? I believe transparency and accountability are important. Perhaps we could present our figures on some register, perhaps similar to the pecuniary interest register, to show the general public that we are being up front about these issues.

The Hon. Doug Moppett: We will never overcome public cynicism while some members have a vested interest in cultivating it.

The Hon. IAN COHEN: I acknowledge that. I believe we can work to minimise that cynicism, and perhaps some of the Greens policies would assist in that regard. I separate my electoral bank account from my salary, and I use all my allowance for my electoral expenses. I have a list of my donations and all electoral expenses. I will not bore the House with those details now, but anyone who wishes to see this information should feel free to do so.

The Hon. JOHN TINGLE [6.15 p.m.]: I do not know what all this mea culpa stuff is about. I find quite extraordinary this talk about transparency, apologising for being paid for being in Parliament and worrying about how the media might respond. I do not predicate my life nor my work in Parliament on what radio, television or newspaper journalists say. I know what my job is and I do it to the best of my ability. If they do not like it, that is their problem, not mine. I do not expect the media to love any of us. I do not expect them to say that we are underpaid—although I believe we probably are. I know that they will seize any opportunity to drive

in the wedge, stick a shiv in the ribs and say that this House is an excrescence and the people in it are fat, lazy, old so-and-sos who sit on red leather seats. We accept that and start from that point when considering what this place is all about.

The Hon. Peter Breen spoke about constituencies and the fact that ours are not the same as those in the lower House. My constituency extends from Broken Hill to Lismore to Albury and throughout the State. The entire State is my electorate, and I must travel around it, work in it and retain contact with it. I have no trouble whatever repaying what is left of my electoral allowance because I never have anything left. I overspend every time and when I account for my expenditure to the Australian Taxation Office, as we all must do, I receive a refund. I did not receive a tax refund for about 26 years when I was earning the sort of money to which the Hon. Peter Breen referred: $250,000 a year with free air trips and motor cars. That is what one is paid in the media world. I worked about a quarter of the hours and nobody ever asked me to account for anything. But I am happy enough.

The Hon. Michael Egan: What did you used to say about remuneration of members of Parliament?

The Hon. JOHN TINGLE: At no stage in my media career did I say anything other than, "If you want good government, you must pay good money to the people who govern." I stand on my record in that regard. The Treasurer may think me incredibly naive, but when I was first nominated for election to this House I thought it was an honorary position. That is what it used to be at one time. I was astonished when the Hon. Beryl Evans, who was then leaving this place, told me that members were actually paid something. I was amazed. I did not think we would be paid; I thought we did it for love. There is a certain amount of love involved, otherwise we would not do it. About 6,000 public servants in this State are paid more than us. Does Ms Lee Rhiannon suggest that we should cut their allowances and pay everyone the salary of a builder's labourer or a brickie? Why do some members of Parliament feel guilty?

They think the media is going to have a go at them so they must apologise because they are eligible for superannuation, receive certain allowances and are refunded for the cost of living in Sydney when Parliament is sitting if they come from the country. As far as I am concerned those who believe superannuation is a bad thing should follow the example set by Ted Mack and resign from Parliament just before they complete their seven-year terms. That is the only thing to do. I believe that misconceptions about the Parliamentary Remuneration Amendment Bill have been perpetuated by the comments of the Hon. Peter Breen. I am sure the Treasurer will correct me if I am wrong, but I understand that the Parliamentary Remuneration Tribunal did not have the power to do what it did. It had the power to set the level of remuneration but not to say that we had to give back any part of it that we did not spend. If I am incorrect in that assumption, I stand corrected.

Reverend the Hon. Fred Nile: They could not tell you how to spend it.

The Hon. JOHN TINGLE: Exactly. That is the point. Therefore, this bill seeks to set that out. Anyone can look at my tax returns; I do not mind. I give them to the tax commissioner so I am happy to give them to anyone else. But will the tax commissioner want 60 pages of documents from me outlining every expense I have had during the past parliamentary year, because that is what this would amount to? Like the Hon. Ian Cohen, I overspend my allowance because I have to. I have a big State to cover and many constituents to serve. It is not cheap to work in this place. Thank God we do not do it for love.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [6.19 p.m.], in reply: I thank honourable members for their contribution to the debate. As a Minister of the Crown I am one of the better paid members of Parliament, but I do not believe that I am overpaid. I have a very responsible job.

The Hon. Duncan Gay: You are well paid.

The Hon. MICHAEL EGAN: I am well paid, but I do not believe that I am overpaid. I receive about one-fifteenth of the payment I would receive if I were running a major supermarket chain in Australia rather than $92 billion worth of public assets. Whilst I say that I am well paid, I do not intend to give any money back because, as I said, I do not believe I am overpaid. I reject suggestions by some crossbench members that we should receive a significant increase in parliamentary remuneration. The Hon. Peter Breen suggested, and the Hon. Dr Peter Wong agreed, that the basic members' remuneration should be $250,000. The Government would have no truck with that.

The Hon. Duncan Gay: Nor the Opposition.

The Hon. MICHAEL EGAN: The Opposition joins me.

Reverend the Hon. Fred Nile: And the Christian Democratic Party.

The Hon. MICHAEL EGAN: The Christian Democratic Party also joins me. As honourable members said, the legislation reinstates the position that existed in this State from 1956 to 2000 and exists in all other States and the Commonwealth. In that way, it makes the position completely transparent. Let us not argue about our salary or income. I am happy to concede that the basic income of a backbench member of Parliament consists of two components: a salary component of $95,000 per annum and an electoral allowance, which is roughly $35,000 per annum depending on the size of a member's electorate.

Ms Lee Rhiannon: It is a flat rate.

The Hon. MICHAEL EGAN: It is the same rate for members of the upper House, but for lower House members the allowance varies depending on the size of the electorate. The total remuneration a backbench member of Parliament receives is $95,000 plus an electoral allowance of approximately $35,000, making a total remuneration of $120,000, all of which is taxable. From this remuneration members are required to spend a large amount, in many cases on expenses associated with the job. The legislation simply reinstates the situation that has always existed in New South Wales, except for one year or two, and exists in every other State. The Government commends the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

Schedule 1

Ms LEE RHIANNON [6.24 p.m.]: I move:

Page 4, schedule 1. Insert after line 4:

[5] Section 10A

Insert after section 10:

10A Declarations by members

(1) A member is required to prepare and submit to clerk of the House of Parliament of which he or she is a member, within 90 days after the end of each financial year, a declaration accounting for the member's expenditure of the electoral allowance paid to the member in respect of that financial year.

(2) The declaration is to account for how the electoral allowance, or such part of the electoral allowance as was spent by the member in connection with parliamentary duties, was spent during the financial year.

(3) The declaration is to be made in a form and manner provided for by the regulations.

(4) If a member fails to comply with this section, the Tribunal may, by order, direct that:

(a) payment of the electoral allowance payable to the member be suspended for such period as the Tribunal may specify, or

(b) any part of the electoral allowance payable to the member be forfeited.

(5) The clerk of each House of Parliament is to keep a register of declarations made under this section.

(6) Copies of the register are to be made available for public inspection on the Internet.

(7) In this section:
financial year means the period of 12 months beginning on 1 July in any year.

The Greens amendment to the Parliamentary Remuneration Amendment Bill would require members to make an annual declaration of the way in which their electoral allowance is spent. The Greens take the view that the

principle of public accountability requires all publicly provided allowances to members to be transparent and accounted for. This amendment would not require members to repay any portion of their allowance, but simply to disclose how it was spent. The Greens are concerned that under the bill as it stands the electoral allowance may lead to the effective salary of members being increased in excess of what the public understands it to be.

Should a member not incur many electoral expenses, then the member could conceivably increase his or her collective salary considerably. The Greens believe that the public is entitled to be honestly informed as to the actual salary of members of Parliament. This amendment would allow members of the public to see for themselves whether or not their representatives are increasing their take-home pay by way of the electoral allowance. The amendment requires all members to submit to the Clerk a declaration of expenditure within 90 days of the end of each financial year. We suggest that this is similar to our declaration of pecuniary interests. It would be interesting to look at the debates that surrounded the introduction of requirements in relation to pecuniary interests.

Perhaps there was an outcry at that stage, as there is about parliamentary remuneration. But now we declare our pecuniary interests automatically. The form and manner of the declaration would be determined by regulation, and the declaration would be publicly available on the Internet. Any member who did not submit the declaration on time could have his or her electoral allowance suspended and/or forfeited until the matter was rectified. I want to refer to some comments that were made by Mr Peter Breen during debate on the bill. He said that this amendment was contradictory to Greens policies. It is not contradictory at all.

The Hon. Dr Brian Pezzutti: Who cares?

Ms LEE RHIANNON: This amendment does not go as far as the tribunal recommendations, nor does it go as far as Greens policy, but it is not contradictory at all. I acknowledge the interjection by Mr Pezzutti.

The Hon. Dr Brian Pezzutti: The Hon. Dr Brian Pezzutti.

Ms LEE RHIANNON: A lot of people do care, Dr Pezzutti.

The Hon. Dr Brian Pezzutti: Madam Chair, I take exception to the Hon. Lee Rhiannon. If she wants to refer to me, she should refer to me by my proper title, not by some title that she likes.

The TEMPORARY CHAIRMAN (The Hon. Janelle Saffin): Order! Ms Lee Rhiannon, I ask that you refer to the Hon. Dr Brian Pezzutti as he would like to be referred to.

The Hon. Peter Breen: To the point of order: I understand that Madam President has ruled that there is no requirement in the standing orders for members to address other members by the title "the honourable". If I am incorrect I apologise, but I understand that to be the President's ruling.

The TEMPORARY CHAIRMAN: Order! The Hon. Dr Brian Pezzutti did not take a point of order. He made a comment about the way he would like to be referred to. I merely ask Ms Lee Rhiannon to refer to the honourable member as he has asked to be referred to.

Ms LEE RHIANNON: As to the comments made by Mr Peter Breen, it is true that the amendment does not go as far as the recommendations of the tribunal or Greens policy. But the amendment is not contradictory to Greens policy. Greens policy sets out a whole lot of issues. We have to vote in this place time and again, and often we vote on matters not in accord with ecologically sustainable development, which goes to the heart of our approach. However, if the matter goes some way to meeting our objectives, we will vote for it. That is why we have moved this amendment. It goes some way to achieving what we believe is a more sensible way to conduct the electoral allowance. We hope that the major parties support this amendment. Nobody is going to lose any money. To all those who have been interjecting—and you would have to think that self-interest prompted some of the interjections—I say this amendment will not result in anyone losing money. The result will be our total salary being clear.

The Hon. John Ryan: You would go through them all and tell everybody they spent something dishonestly.

Ms LEE RHIANNON: No, we are not proposing—

The Hon. John Ryan: Yes you would. You would exploit it for political purposes.

Ms LEE RHIANNON: I acknowledge the interjection of the Hon. John Ryan. He is saying we would exploit it for political gain.

The Hon. John Ryan: Absolutely.

Ms LEE RHIANNON: What you are saying is that people are not using the money to do their job.

The Hon. John Ryan: You would distort it, as you have distorted this.

Ms LEE RHIANNON: We are not distorting anything. Why did honourable members not contribute to the debate and indicate where we were incorrect? I hope members will contribute to the consideration of the bill now in Committee. We look forward to hearing their points of view about where we are wrong. If honourable members claim we are wrong, let us hear about it. If they are saying that there are shades of difference because of political interest, really, we need to get over that. I commend the amendment to the Committee. It is a simple means by which we can go some way to cleaning up the way in which the electoral allowance is handled in this State.

The Hon. MICHAEL EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [6.31 p.m.]: The Government will not support the amendment for the reasons that I outlined both in my second reading speech and in my response to the second reading debate.

The Hon. JOHN RYAN [6.32 p.m.]: The Opposition does not support the amendment. I would point out a fundamental misstatement by the honourable member on behalf of the Greens that I think ought to be put straight. The allowance that we have spent so much time discussing is called an electoral allowance, but it is not an allowance in the way that she has characterised it. It is an allowance given to members of Parliament to compensate them for expenses they incur as a normal part of their duties. It is not a reimbursement. A reimbursement, of course, is something that would require transparent information to be given to the public. There would be a full understanding as to what that allowance was for, and it ought to be properly accounted for. Reimbursement for things such as stamps, postage and telephone calls are accounted for by receipt.

I recall that in her contribution earlier the honourable member attempted to suggest that the allowance was in some way income. It is not income; it is reimbursement for the ordinary expenses we have as a normal part of our jobs, and that is standard. The history of the allowance is that it is paid to members of Parliament as part of their ordinary salary because it has been understood that being a member of Parliament requires us, no matter how much we are paid, to undertake additional expenditure that cannot be reimbursed. It would be unfair to reimburse members, because each member services his or her electorate in a different way. Each pays for items at a different rate and scale. Consequently, it would be totally unfair if the allowance were treated as a reimbursement.

It is a recognition that we as members of Parliament have a different way of doing our jobs than other members of the public or other public servants do their jobs. No other public servant, for example, is expected to pay for some of his or her travel; no other public servant who travels overseas to study some issue is expected to pay for some of his or her travel; no other public servant who travels overseas to study is expected to contribute to the cost; no other public servant is expected to pay expenses to actually get his or her job in the first place, as members of Parliament are expected to do. In order to get elected they incur expenses during the year in which they are elected. No other public servant or any other person usually conducts himself or herself in that way.

This is a special component of remuneration given to members of Parliament that compensates members for the fact that they are very different in the way they go about paying some expenses. It would not be fair to reimburse us. To try to do so would be an enormously expensive undertaking. The honourable member has exploited the name of the allowance and suggested that somehow it represents an increase in salary. There is no increase involved. This is the way members of Parliament have been paid since 1956. To characterise it in some other way would result in a decrease in salary for members; it would be an attempt to pay politicians less.

The honourable member has been involved in supporting the trade union movement, suggesting that there should be no undermining of benefits and so on that have traditionally been a component of salary. One of my colleagues said to me earlier that the member has a vested interest in perpetuating an inaccuracy. That is true. She is attempting to create a stunt, and I—being an honest member of Parliament, like all other members with whom I serve—repudiate firmly, but without rancor, the fact that she has been inaccurate.

The honourable member is trying to gain a political advantage by characterizing the situation as something it is not. By stating clearly what the allowance is we are making sure that when the Parliamentary Remuneration Tribunal determines it in the future, it will do so accurately knowing full well what the allowance is.

The Hon. PETER BREEN [6.35 p.m.]: I support the comments of the Hon. John Ryan in relation to the nature of this payment. It is an allowance, similar to allowances paid to other workers, such as builders and tradespeople who receive site and height allowances and so forth. It is taxable when they receive it; they do not have to account for or justify it. That is the way it has always been treated. In that sense, all the legislation does is confirm the existing arrangement. The opprobrium it attracts, to which Ms Lee Rhiannon has drawn attention, is a separate issue altogether and not the subject of this amendment.

The amendment seeks to make the allowance transparent but it does not go all the way in regard to Greens policy, which is, of course, to refund the allowance. I do not regard that as sensible policy given that such allowances are not refunded. Some allowances, such as the logistic support allowance, would be refunded but this particular allowance is not a reimbursement, to use the words used by the Hon. John Ryan. This attitude reminds me a little of the Labor Party policy in relation to a bill of rights. According to Labor Party policy we should have a bill of rights, but when it comes to practice the Labor Party says that we do not really want a bill of rights; we do not want to make waves. To the extent that this amendment does not reflect the policy of the Greens and does not achieve the purpose it sets out to achieve, I will not support it.

Ms LEE RHIANNON [6.37 p.m.]: I note the comments of the Hon. John Ryan explaining what this allowance is all about. He said that I had it wrong; that it is not an allowance. That was the basis of his contribution. He said it was compensation for duties performed. That was the whole basis of his argument. But that is precisely where it has been fudged. You can see that by reading page 2 of the bill. Once this legislation has been passed—that is, in a few minutes time—yes, the allowance will be defined in the Act as compensation. But at this moment it is not defined as compensation. We are about to bring that in. That is one of the changes—

The Hon. John Ryan: We are not bringing it in; we are doing something—

Ms LEE RHIANNON: No, that might not have been the language that you used to justify it, but that is one of the changes being made. I remember this so clearly. The major parties in their submissions to the tribunal came up with the word "compensation". That is when we first saw it. That is when it was being used for the first time to fudge it.

The Hon. Patricia Forsythe: It is not fudging anything.

Ms LEE RHIANNON: Yes, it is fudging. I acknowledge the interjection from the Hon. Patricia Forsythe saying it is not fudging anything. It is. All I am saying is that you base your argument on the premise that I had the whole thing wrong; that all we have is a bucket of money that is compensation for our work. It will be compensation once this bill is passed. At least be honest on that score. I was not wrong about that. I commend our amendment to the Committee.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 4

Dr Chesterfield-Evans
Ms Rhiannon
Tellers,
Mr Cohen
Mr Oldfield

Noes, 29

Mr Breen	Mr Hatzistergos	Mrs Sham-Ho
Ms Burnswoods	Mr M. I. Jones	Mr Tingle
Mr Corbett	Mr Lynn	Mr Tsang
Mr Dyer	Mr Macdonald	Mr West
Mr Egan	Mr Moppett	Dr Wong
Ms Fazio	Mrs Nile	
Mrs Forsythe	Reverend Nile	
Mr Gallacher	Mr Pearce	
Miss Gardiner	Dr Pezzutti	*Tellers,*
Mr Gay	Mr Ryan	Mr Jobling
Mr Harwin	Mr Samios	Mr Primrose

Question resolved in the negative.

Amendment negatived.

Schedule 1 agreed to.

Title agreed to.

Bill reported from Committee without amendment and passed through remaining stages.

[*The President left the chair at 6.50 p.m. The House resumed at 8.30 p.m.*]

POLICE POWERS (DRUG DETECTION DOGS) BILL

Bill introduced and read a first time.

Declaration of urgency agreed to.

Second Reading

The Hon. MICHAEL COSTA (Minister for Police) [8.35 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Police Powers (Drug Detection Dogs) Bill. The use of dogs as a tool for law enforcement and crime solving is an important part of a multifaceted approach to policing in New South Wales. The Government supports the development of the use of any appropriate tool to assist police in keeping the community safe. The use of trained dogs to assist police to locate missing persons or the deceased, to detect explosives and to undertake other relevant duties is essential for proper policing. The bill is drafted to recognise the need for police to use drug detection dogs to assist in identifying persons involved in the illicit drug trade and particularly those supplying prohibited drugs.

This bill is the result of in-depth development by the Criminal Law Review Division of the Attorney General's Department, in consultation with the Police Service. A thorough examination of the current law and the practices of police has resulted in a model that ensures ongoing public confidence in the range of measures available to the police to rid the streets of drug crime. The bill is also putting beyond doubt the capacity that police have whilst ensuring appropriate safeguards at the same time. The bill defines "general drug detection" as the detection of prohibited drugs or plants in the possession or control of a person other than during a search that has been carried out after a police officer reasonably suspects that a person is committing a drug offence. The bill further authorises where the general drug detection power can be exercised and prescribes the manner of that exercise.

Drug dealers and couriers are on notice that they will be the subject of general drug detection in authorised places prescribed under this bill. The bill provides the police with the power to undertake general drug detection in authorised places, pursuant to clause 7, and drug detection with dogs by warrant in places as specified for a limited period pursuant to that warrant. There is contained in clause 4 of the bill a general authority to use drug detection dogs pursuant to the legislation. General drug detection, as authorised by the bill, is specified in clause 5. The authorised places are defined in detail in clause 7. If drug dealers are on licensed premises or about to enter or leave licensed premises such as nightclubs, bars, entertainment venues and dance parties they could be the subject of general drug detection operations.

The dogs will also be used at parades and festivals. Let there be no confusion: if you carry drugs at such places you may be apprehended and dealt with according to law. General drug detection will also operate on transport lines, as prescribed in the regulation-making power under the bill. This is a vital tool for police to follow the drug trade as it moves around. If need be, the lines prescribed will change as the circumstances change. As Minister for Police, I will monitor the effectiveness of the localities prescribed by regulation, and the Attorney General, on the basis of police intelligence, will be in a position to draft the regulations as to what transport locations need to be designated.

The bill is aimed primarily at detecting and prosecuting persons committing offences relating to the supply of prohibited drugs or plants. Clause 8 (2) outlines the rationale for the application for a warrant. If an officer seeking a warrant has reasonable grounds to suspect drug offences are being committed in a public place he or she will make such an application.

It is clear that the activity envisaged is drug dealing. If police notice the presence of drug activity and dealing in a particular area, they will have the legitimate grounds to seek such a warrant. A marketplace situation, for example, may develop where police intelligence indicates that drug users have been congregating in a local park or laneway and that this is a clear indication that drug couriers are in the area and sniffer dogs should be brought in. To facilitate this, police will have the capacity to carry out a drug detection operation in an area prescribed by a warrant defining the locality. The warrant will also specify whether this will be a covert operation, in plain clothes, or an overt operation, in police uniform.

This is similar to the process in place to facilitate raids on drug houses. This legislation is consistent with the Government's approach to harm minimisation for low-level drug users. Obviously, some of those users will be detected in police operations. Police, of course, retain their discretion under the existing cannabis cautioning scheme emerging from the Drug Summit and the appropriate interventions available under the Young Offenders Act for users who are obviously not involved in dealing or the supply of prohibited drugs.

It is important that those offenders appreciate the enhanced capacity police have to undertake drug detection and for drug users to be diverted to appropriate schemes. They may seek assistance to stop using drugs, and that is one of the clear benefits of this legislation. The New South Wales Government has led the way in treatment of persons who are using these harmful substances on the one hand, whilst cracking down hard on the supply of them. No justification is necessary for police concentration on stopping the use of prohibited drugs where they can, and a range of options are available to police once they have identified that a person is carrying a prohibited drug to divert persons into treatment.

These include the cannabis cautioning scheme, the Magistrates Early Referral into Treatment Scheme and bail conditions by police and courts relating to treatment. For the more serious offenders there are the Drug Court and the Youth Drug Court. It is important to remember that the use of drug detection dogs is currently subject to strict police protocols and expert handlers use these animals to identify prohibited drugs. This will remain the case. In conjunction with the principles of this bill, we will have the best equipped drug detection team.

The public interest in these designated areas is in the detection of prohibited drugs because the health of the public is at risk. Police will be able to target well-known drug dealing areas and break up the trade in prohibited drugs. One situation the bill contemplates is where a drug detection dog touches a person while searching. This might currently render a search unlawful because the trespass on the person is not justified at the time the dog touches the person. The police officer may not yet have formed a reasonable suspicion when the dog touches the person but does so only after the touching. The touching is potentially an unjustified trespass and therefore unlawful.

The bill indicates that all reasonable precautions should be taken by a police officer conducting a general drug search to stop the dog from touching a person. However, if despite the best efforts of the police officer handling the dog an inadvertent or incidental touching takes place then the touching by the dog does not constitute an unlawful search by the police officer. Police appreciate that the safety of all persons involved and of the dog is best served if the dog cannot touch the suspect at all, and intentional touching is not authorised by this bill. There are specific criteria guiding police powers concerning drug detection dogs under this legislation.

There are safeguards that recognise freedom of movement by our law-abiding citizens. I met this morning with representatives of civil liberties groups who expressed some concern. As a society we value our freedom of movement as well as we value the freedom to be free of illicit drugs. The appropriate balance is achieved in this bill. The New South Wales Ombudsman will monitor the legislation during the first two years of operation and report as soon as possible after the end of the two years. Police will assist in the review by providing statistical data on the use of the dogs. The bill is balanced, and it is strategic in terms of attacking the root cause of drugs in our society. Couriers and dealers in prime locations where drug activity takes place outside private homes are specifically targeted. I commend the bill.

Debate adjourned on motion by the Hon. Doug Moppett.

GAMING MACHINES BILL

In Committee

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.46 p.m.]: I move:

The whole Bill (including the long title). Omit "*Gaming Machines*", "gaming machine" and "gaming machines" wherever occurring. Insert instead "*Gambling Machines*", "gambling machine" and "gambling machines" respectively.

This amendment changes the name of the bill from the Gaming Machines Bill to Gambling Machines Bill and changes "gaming machines" to "gambling machines" throughout the bill. As I said earlier the word "gaming" has an innocent connotation. The semantics are important in defining the paradigms in which gambling exists. We should call a spade a spade because that is the first step in taking effective action on spades.

The Hon. GREG PEARCE [8.47 p.m.]: Although the representative of the Australian Democrats clearly has very strong views about the semantics of this, after hearing his contribution to the second reading debate, his amendment amounts to self-indulgence and the Opposition does not support the amendment.

The Hon. IAN COHEN [8.48 p.m.]: I must have missed something in the contribution of the Hon. Dr Arthur Chesterfield-Evans. It was very detailed and one's concentration can flag at this stage of the parliamentary sitting when we have an avalanche of bills from the Government's conscientious agenda. It appears that the concept of calling a spade a spade is appropriate. Why not call it the Gambling Machines Bill? That makes a correct assumption. Too often we sugar-coat legislation. I would be interested to hear the Government's position on this matter. I may have to consult a dictionary. Gambling it is and one would hope that we would call it by that name. I support the amendment.

The Hon. IAN MACDONALD (Parliamentary Secretary) [8.49 p.m.]: The bill uses the widely accepted term "gaming machines" in many places, including in its title. For the benefit of the Hon. Dr Arthur Chesterfield-Evans, the expression "gaming machines" is recognised in all Australian jurisdictions. Some jurisdictions refer to electronic gaming machines while others refer to approved gaming machines, but all use the word "gaming" rather than "gambling".

The Hon. Richard Jones: Why?

The Hon. IAN MACDONALD: The Hon. Richard Jones is on the ball tonight; I was about to tell him why. The term "gambling" is used to cover both gaming and wagering; it is a generic term. Wagering refers to the laying of bets on certain events, such as horseraces or Australian Football League or rugby league matches. "Gaming" refers to gambling on games when there is a random chance of winning or losing. The proposed change would be unnecessarily confusing given the wide acceptance of the expression "gaming machines".

There would also be significant cost implications if the proposed amendment were to succeed. For instance, the Department of Gaming and Racing and the Casino Community Benefit Fund use the common expression "gaming machines" in their publications and literature. The proposed amendment would do nothing to minimise the harmful effects of poker machines; rather, it would add to public confusion and waste resources that could be better utilised elsewhere.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.50 p.m.]: I addressed this point in my contribution to the second reading debate—I cannot tell a lie: my speech was a filibuster. Any minor inconvenience suffered is regretted, but it was for the greater good. The Hon. Ian Macdonald asserted that, according to his semantic definitions, gambling is divided into gaming and wagering. The word "wagering" is rarely used in common parlance; the word "betting" is used instead. Most people think of gambling in terms of taking a risk within a framework and of betting in terms of putting money on horses or on whether some event will occur. Gambling machines have had that name for a long time.

The Parliamentary Secretary claimed that the word "gaming" is widely accepted, but I would argue that the expression "gaming machine" has come into common parlance over the past 10 or 15 years. I believe this was encouraged by the people who run those machines because they wanted the euphemism or the less confronting term to be used. In fact, they have persuaded a number of jurisdictions to use the word "gaming". That is a serious policy. The tobacco industry refused to admit that smoking caused disease and for many years referred to "smoking-related disease", even though the cause was clear. The semantics are very important.

As for the cost implications of changing the name of the Department of Gaming and Racing, I put it to honourable members that the stationery could be changed—this happens whenever new ministries are announced—at some future time. It is wrong to suggest that this would cause confusion. The problem for the industry is that it would lessen confusion and people would know what they were doing: sending their money down the tube rather than playing a game.

The Hon. IAN COHEN [8.53 p.m.]: According to the Oxford dictionary, "gaming" means to "play at games of chance for money, gamble" and the definition of "gambling" is "to play at games of chance for money". Those terms mean one and the same thing; they are completely interchangeable.

The Hon. Ian Macdonald: No, they are not.

The Hon. IAN COHEN: They are according to that dictionary. People do not say that they are going to have a game when they are going to gamble. "Gambling" is the accepted parlance in Australia, and the title of the bill should be easily understood.

The Hon. JOHN TINGLE [8.54 p.m.]: Perhaps I am obtuse but, if we accept the Hon. Ian Cohen's argument that the two words mean the same thing, there is absolutely no need to change the title of the bill.

Reverend the Hon. FRED NILE [8.55 p.m.]: The Christian Democratic Party supports the amendment—in fact, we have spoken in favour of this change for many years for the sake of accuracy. It is a gambling bill and should be described as such. However, the Government likes to use terminology—for example, "medically supervised safe injecting room" rather than "shooting gallery"—that does not frighten the public. When people hear that another gaming bill has passed through Parliament, they think it must be a bill about hunting or some games. If they heard about the passage of a gambling bill, people would ask, "Why is the Parliament extending gambling?" Both sides of politics have made a political decision not to alert the public to what is happening in this place. Let us be accurate and use the word "gambling" in this bill.

The Hon. RICHARD JONES [8.55 p.m.]: According to the *Concise Macquarie Dictionary*, published by Doubleday, "gambling" means:

> … to play at any game of chance for stakes … to stake or risk money, or anything of value, on the outcome of something involving chance.

The definition of "gaming" is "to play games of chance for stakes; gamble"—or even better—"to squander in gaming." Therefore, this legislation should be called the "Gaming Bill" because it is about people squandering their money.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.56 p.m.]: If the Government is committed to harm minimisation, it should conduct a survey of which word would make gambling less popular and give that name to the bill and the habit. We researched the words that should appear on cigarette packets to discourage people from smoking and we should research which words are likely to discourage people from gambling. That is perfectly sensible public health policy.

The Hon. Greg Pearce: As if changing "gaming" to "gambling" would discourage people.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It makes a difference.

The Hon. Dr PETER WONG [8.57 p.m.]: We must ask whether a lay person who wished to find legislation about gambling would look under the word "gaming". Ordinary Australians would not do that. Therefore, the word "gambling" is more appropriate.

Amendment negatived.

Part 1

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [8.58 p.m.], by leave: I move Australian Democrats amendments Nos 1 and 2, in globo:

> No. 1 Page 2, clause 3, line 20. After "minimisation" insert "as their primary consideration, and are not to consider the effect of their actions on the revenue of the State and of the participants in the gaming machine industry,"
>
> No 2 Page 2, clause 3, line 23. After "interest" insert "even if the exercising of a particular function might result in a reduction of the revenue received by the State".

These amendments ensure that the bill, which aims to minimise harm from gambling, states clearly that that is its prime objective and that it will not consider any effects on the revenue of the State and gaming—I will use the euphemism as the previous amendment was lost—industry participants.

The object of this bill is to minimise harm. The effects of this legislation on the finances of this State or this industry are not to be considered. In other words, the provisions in the legislation relating to harm minimisation are fair dinkum. Earlier, the Hon. Ian Macdonald said in reply to debate on the second reading of

the bill that the Government was not interested in revenue from gambling and that it was willing to wear any loss in gaming revenue as it wanted to do something good for this State. The Government now has an opportunity, through these amendments, to prove its intentions. I commend these amendments to the Committee. The Hon. Ian Macdonald said earlier that the Government was prepared to accept these amendments.

Reverend the Hon. FRED NILE [9.00 p.m.]: The Christian Democratic Party supports these excellent amendments, which will help by taking pressure off the Government. Objective decisions should be made about the impact of gambling on the community. If that occurs no-one—and I include in that the approving authority or anyone else—will have to worry about the effect of this legislation on the revenue of this State. That should not be a factor in our consideration of the social impact of gambling. It was stated earlier that it is the policy of the Government to separate those two things. These amendments will assist the Government in its role.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.01 p.m.]: The Government opposes both amendments for the reasons that I outlined in considerable detail in my speech in reply to the second reading debate. I refer, first, to Australian Democrats amendment No. 2—when determining "public interest", regard is not to be given to any reduction in State revenue. The amendment suggests that under the clause as presently drafted there might be circumstances in which a possible reduction in State revenue might be considered to be against the public interest. If that is the case, the clause should stand as it is.

The public interest is the public interest. There is no benefit in narrowly defining what is or is not in the public interest. The Gaming Machines Bill does not control gaming machine revenue. That is dealt with under the Gaming Machine Tax Bill. The honourable member is again moving amendments to the wrong bill at the wrong time. More significantly, however, we are again faced with the prospect of not being able to consider any revenue reduction when contemplating issues such as compensation payments to a centralised monitoring system licensee. The Government opposes these amendments.

The Hon. IAN COHEN [9.02 p.m.]: I support the amendments moved earlier by the Australian Democrats, which come within the Greens principles that harm minimisation must be given primacy. These amendments, which will not break the bank, attempt to put things in the right perspective.

The Hon. GREG PEARCE [9.03 p.m.]: Opposition members have some reservations about the time taken to introduce this bill and the way in which it was introduced. However, we are not prepared to support amendments that potentially will confuse and trivialise the legislation. We are certainly not prepared to support amendments that make a nonsense of already difficult provisions. The Opposition does not support these amendments.

Amendments negatived.

Part 1 agreed to.

Part 2

The Hon. Dr PETER WONG [9.04 p.m.]: I move Unity Party amendment No. 1:

No. 1 Page 11, clause 10. Insert after line 10:

(3) The overall State cap is to be reduced by 1% per annum in each of the 10 years succeeding the commencement of this section. The number of machines referred to in subsection (2) (a) and (b) is to be reduced accordingly.

(4) For the purposes of this Act and despite any other provision of this Act, the number of approved gaming machines that a hotelier or registered club is authorised to keep is taken to be reduced by 1% per annum in each of the 10 years succeeding the commencement of this section.

(5) Subsection (4) applies in respect of a new hotel or new club in respect of any year in which it becomes licensed or registered during the period referred to in that subsection.

This amendment will reduce the overall State poker machine cap by 1 per cent per annum for a period of 10 years. The rationale for this amendment is straightforward. Problem gambling is impulsive addictive behaviour. Clearly, gaming machines are one of the most common forms of gambling in New South Wales. One of the most effective ways of dealing with this problem is to reduce the opportunities for gambling and the availability of gaming machines in New South Wales. That means that we have to reduce the total number of poker machines in New South Wales. In discussions with the Government my office has been assured that the provisions in this bill will reduce the number of poker machines over time, as machine entitlements go into a pool through transfers and closures and as clubs reduce machines below the 450 cap for each club.

This amendment simply puts in place some hard targets for the reduction of machines, in line with the Government's stated objectives. If that cap is not reduced, this Government and any future Coalition government will be under pressure from its close friends, the hotel and club industry, to grant new entitlements as they become available within the cap. I confidently predict that, if this amendment is not passed, the number of poker machines in New South Wales will not be reduced during the next two years, or they might not be reduced at all. The reduction that I am proposing is quite modest in comparison to the recent expansion in the number of poker machines. This amendment will gradually reduce the cap from 104,000 to 94,000 over 10 years. In 1995 those numbers increased to only 62,000.

If my amendment is passed it will still leave this State with 50 per cent more machines in 2012 than were available in 1995, which is large base from which the Government can generate considerable and increasing revenue. It will still enable poker machine owners to become immensely wealthy at the expense of problem gamblers and their families. By rights, the number of machines should be reduced by a much greater number—perhaps 10 per cent per annum as suggested earlier by Reverend the Hon. Fred Nile. So my amendment is proposing only a modest reduction. I have no doubt that the Government will attempt to raise some logistical, cost or other objections to my amendment.

I am confident that the cap can be reduced by 1 per cent per annum if the machines go into a pool as a result of the mechanisms to which I referred earlier, such as transfers and club closures. If, for some reason, the cap is not reduced by that amount in a year, it is not a significant problem. The Government simply does not have to approve new entitlements until the numbers come down to the legislated cap. The Government also has the option of purchasing some machine entitlements to help bring down the cap by a total of 1,000 machines a year. Each entitlement is worth about $200,000 in Sydney, but entitlements might be considerably less in other areas. One hundred machine entitlements would probably cost less than $20 million.

That is a minor amount when compared to the Government's annual revenue from gaming machines in hotels and clubs. If the Government did not wish to bear this cost, it could simply increase the revenue it collects from each machine, as a percentage of machine profits, to make up the difference. For the record, according to budget papers, total revenue from gaming machines in 2000- 01 was $734 million. That represents $411 million from club machines and $323 million from machines in hotels. The Government has estimated that that figure will increase to a total of $907 million by 2004-05. As other honourable members have said, the Government is addicted to gambling revenue. Honourable members should not state in debate that it is too hard or costly to reduce the number of machines. Government and Opposition members simply do not want to reduce the number of machines as they do not want to upset their wealthy friends. Let us face it: all honourable members, the people of New South Wales and I know that Government and Opposition members have been bought by hotels and clubs.

Reverend the Hon. FRED NILE [9.07 p.m.]: The Christian Democratic Party strongly supports this moderate and reasonable amendment. However, I believe that there should be a 10 per cent reduction each year in the number of gaming machines. The Unity Party is requesting a 1 per cent reduction in poker machines, which is a small amount. In view of the fact that New South Wales has more than half the total number of poker machines in Australia and more than 10 per cent of all poker machines in the world, we are facing a major social problem. Even though there is now a cap on the number of machines that can be held by any one club, that figure should not be increased.

In view of those statistics, our main aim should be to reduce the number of poker machines in hotels and clubs. According to an inquiry conducted by the Productivity Commission, there are 150,000 problem gamblers in New South Wales—half the Australian total of 300,000. Each year, problem gamblers lose $12,000 a year—15 times more than the average gambler. Nationally, problem gamblers constitute only 15 per cent of gamblers, yet they lose $3.7 billion, or one-third of the total amount of money that is lost through gambling. A small number of people are losing $3.7 billion every year. One of the people who gave evidence to the Productivity Commission, a former gambling addict, said:

> Gambling is a disease that is rapidly growing out of control.

This poker machine addict confessed to poker machine losses of more than $200,000. Mr Jamie Buikhuisen of Fairlight said:

> An evil monster is being created and the powers that be are turning a blind eye. What will it take for someone to stand up and slay the monster?

Something must be done to reduce problem gambling.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.09 p.m.]: The target in proposed subsection (3) is laudable, if modest. It is not merely a question of the number of poker machines. The technology of the poker machines is such that the take increases by about 10 per cent per year per machine. This modest target would be overtaken by technology. We have a problem with proposed subsections (4) and (5) because they make rules for each hotelier. If the number of machines in a hotel with seven machines is reduced by 1 per cent per year, when is the machine taken out? The amendment has practical difficulties, but we support its objective.

The Hon. IAN COHEN [9.10 p.m.]: I support the Unity amendment. A reduction of 1 per cent per year for 10 years is a modest decrease. This amendment sets things in train in the right direction. A huge amount of money goes into individual machines. A requirement for more machines that take small coin denominations would also alleviate the situation. This is a modest and reasonable step in the right direction to control an out-of-hand situation in New South Wales.

The Hon. RICHARD JONES [9.11 p.m.]: I support the amendment moved by the Hon. Dr Peter Wong. A reduction of 1 per cent per annum is fairly modest. It gives an indication of where we should be going. We have to wean ourselves off poker machines and reduce the misery they cause: broken families, suicides, destruction of businesses, loss of homes. It is time we took the bull by the horns and wrestled it to the ground.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.11 p.m.]: This amendment is unnecessary. There will be a natural decline in machine numbers across the State when all hardship approvals have been filled. A ceiling of 104,000 of the total number of machines is set in concrete in the legislation and can be changed only by amendment. It is expected that in the first year or two machine entitlements that are to be forfeited as a result of the transfers will be reallocated to meet hardship applications that have been approved by the Liquor Administration Board. Under the current hardship scheme for clubs, the board has already approved a further 700 or so machines that are scheduled to be installed in a staged manner over the next two years.

These machines will be able to be authorised for installation only if there are sufficient forfeited entitlements available in the pool. Similarly, it is anticipated that several hundred machines may be approved under hardship applications by hotels. These machines will also not be able to be authorised or installed unless there are sufficient numbers in the pool. Both the club and hotel hardship schemes will have a limited life. Hardship applications will only be able to be accepted for three months after the commencement of the legislation. However, it could take several years for sufficient forfeited machines to be available to meet all of the approved hardship cases.

Once all hardship cases have been allocated from the pool, the natural decline in machine numbers will commence. The only further allocations that will be able to be made from the pool will be for new club premises, and these will be limited to no more than 10 per new club premises. It is unnecessary to force a 1 per cent reduction on the overall State cap. Such a reduction creates the possibility that entitlements may never be able to be provided to some genuine hardship cases that have been approved by the Liquor Administration Board. Consequently, the Government opposes the amendment.

The Hon. GREG PEARCE [9.13 p.m.]: Whilst the Opposition has great concerns about the Government's addiction to gambling revenues, this is a serious area. Responsibility and accountability demand that we do not just go along with fanciful amendments which sound like a good idea at the time. Unfortunately, this amendment lacks any sophistication and takes a simplistic approach to the issue. There is nothing to indicate it will work in any way at all. In the circumstances, the Opposition does not support the amendment.

Amendment negatived.

Part 2 agreed to.

Part 3

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.14 p.m.]: I move Government amendment No. 1:

No. 1 Page 14, clause 15, lines 15 and 27. Omit "variation" wherever occurring. Insert instead "increase".

Clause 15 currently provides that the board would issue poker machine entitlements in respect of the frozen number of machines. "Frozen number" is defined as the number determined by the board after taking into

account the number of machines authorised as at the date of the relevant freeze, that is, 28 March 2000 for clubs and 19 April 2001 for hotels, and any variation in the number since that date. There are some cases in which hotels, in particular, have lawfully increased their poker machine numbers since the freeze through certain exceptional situations provided for under the current legislation, for example, through swapping approved amusement devices for poker machines in certain situations. The intention is not to disadvantage those hotels that have lawfully increased their poker machine numbers since the freeze.

On the other hand, some hotels and clubs have let their poker machine numbers decline since the relevant freeze was introduced on the understanding that they would be permitted to increase back to their freeze levels at some future date. It is not intended that the new frozen numbers should be adjusted to reflect any decrease in machine numbers in these cases, as to do so would represent imposing a new freeze on top of the two separate freezes that have already been imposed on the club and hotel sectors. Government amendment No. 1 amends clause 15 (3) and (5) by replacing the word "variation" with "increase". I commend this amendment.

The Hon. GREG PEARCE [9.16 p.m.]: The Opposition accepts the Government's arguments and will support the amendment.

Amendment agreed to.

The Hon. Dr PETER WONG [9.16 p.m.], by leave: I move Unity amendments Nos 2 and 3 in globo:

No. 2 Page 15, clause 16, line 7. After "club." insert "This subsection is subject to subsection (3).".

No. 3 Page 15, clause 16. Insert after line 13:

(3) The Board cannot allocate any further poker machine entitlements in respect of a hotelier's licence that is held in relation to a new hotel, except as a result of a transfer in accordance with this Division.

These amendments make it clear that new hotels granted a hotel licence will not be automatically entitled to any poker machine entitlements; they will have to purchase any such entitlements from within the cap. If new hotels were to receive such licences, this would go against the Government's stated aim to reduce the total number of machines in New South Wales. I have been informed by the Government that under the legislation new hotel licences will not be allocated free machine entitlements, they will have to purchase them. However, this fact is not clear in the bill. These amendments clarify the legislation.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.17 p.m.]: The Government opposes the amendments. They attempt to clarify the bill by specifically providing that the bill cannot allocate further free poker machine entitlements to a new hotel. The argument is that new hotels should be required to purchase poker machine entitlements in the future. The amendments are unnecessary. There is no provision in the bill for the board to issue free poker machine entitlements to new hotels in the same way that is proposed for new clubs. However, this bill specifically provides for hardship machines to be granted to new hotels in certain circumstances. The bill also provides that these machines will be able to be swapped for transferable poker machine entitlements after three years. The amendments would prevent that from occurring. Consequently, the Government opposes these amendments.

The Hon. GREG PEARCE [9.18 p.m.]: These amendments are well meaning but, unfortunately, take a simplistic approach. They do not make anything clear in the legislation. The Opposition does not see the purpose of the amendments. Therefore, we do not support them.

The Hon. IAN COHEN [9.18 p.m.]: I place on record the Greens support for the Unity amendments. It is very clear to me that the amendments disallow new hotel licences from receiving free machine entitlements. That may encourage new ventures to orientate away from poker machines towards more appropriate and worthwhile forms of entertainment.

Amendments negatived.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.19 p.m.], by leave: I move Government amendments Nos 2 to 10 in globo:

No. 2 Page 15, clause 17, line 21. Omit "no more". Insert instead "less".

No. 3 Page 15, clause 17, line 23. Omit "at the request of". Insert instead "on application by".

No. 4 Page 15, clause 17, line 27. after "premises." insert "Any such application may be made only once in respect of the premises concerned.".

No. 5 Page 16, clause 18, lines 4 to 9. Omit all words on those lines. Insert instead:

(3) A poker machine entitlement cannot be allocated in relation to a hardship gaming machine until after the period of 3 years following the date (as determined by the Board) on which the hardship gaming machine was approved to be kept in the hotel or on the premises of the club concerned.

Note. Section 31 provides that a hotelier or clubs may apply for a poker machine entitlement in relation to a hardship gaming machine only after the period of 3 years following the approval of the keeping of the hardship gaming machine.

No. 6 Page 17, clause 20. Insert after line 19:

(4) A block of 3 poker machine entitlements may comprise entitlements that have been allocated in respect of more than one hotelier's licence or more than one set of club premises.

No. 7 Page 17, clause 20, line 22. Omit "5".

No. 8 Page 20, clause 25, line 7. Omit "which poker machines". Insert instead "which poker machine".

No. 9 Page 24, clause 31, line 24. Omit "After 3 years from the commencement of this section, the". Insert instead "The".

No. 10 Page 24, clause 31. Insert after line 29:

(3) An application under subsection (1) for the allocation of a poker machine entitlement in relation to a hardship gaming machine may be made only after the period of 3 years following the date (as determined by the Board) on which the hardship gaming machine was approved to be kept in the hotel or on the premises of the club concerned.

Government amendments Nos 2, 3 and 4 deal with the allocation of poker machine entitlements in respect of certain clubs. Three statute law amendments are to be made to clause 17. At present, under clause 17 (2), small clubs can apply to have their machine entitlements increased to 10. Clause 17 (1) states that this section applies to clubs with no more than 10 entitlements. However, if a club currently has exactly 10 machines it will not be able to apply for any more. Amendment No. 2 amends clause 17 (1) to state that this section applies to clubs with fewer than 10 entitlements.

At present clause 17 (2) provides that new clubs and small clubs can request up to 10 entitlements. Amendment No. 3 formalises this procedure by providing that the board can consider such matters on application by a club rather than at the request of a club. In order to avoid small clubs or new clubs divesting themselves of these free entitlements three years after allocation and then applying for further free entitlements on the basis that they now have fewer than 10 machines, amendment No. 4 adds a sentence to clarify that clubs can seek free entitlements under this section on only one occasion.

Amendments Nos 5, 9 and 10 refer to the three-year restriction on trading hardship machines. Clause 31 of the bill provides that three years after the commencement of the section the board may allocate poker machine entitlements for hardship machines. The time period of three years after the commencement of the section is inconsistent with the time period in clause 30. Clause 30 (2) (a) provides that a hotel or club will not have to forfeit hardship machines after the period of three years following the date on which the hardship machines were approved to be kept. Amendments Nos 9 and 10 amend clause 30 by applying the same three-year time period as in clause 30 (2) (a), that is, three years after approval was given, rather than three years after the commencement of the legislation. Amendment No. 5 is a consequential amendment to clause 18 (3).

Government amendments Nos 6 and 7 relate to the ability to pool entitlements to make up a basic block of three. It was always intended that if one hotel or club had fewer than three spare entitlements to transfer, they should be permitted to join up with another hotel or club in order to form the basic building block of three entitlements required for a transfer. Clause 21 limits the number of blocks that can be transferred from a country hotel to a metropolitan hotel each year. Only one block per annum is permitted. The provision as drafted does not recognise that the block can be contributed to by more than one hotel, and it is possible that the provision could be interpreted to prevent such arrangements. Amendment No. 6 provides that a block of three entitlements may comprise entitlements that are allocated in respect of more than one hotelier's licence, or more than one registered club. Amendment No. 7 rectifies a typographical error in clause 20 (4). Again, government amendment No. 8 rectifies a typographical error in clause 25 (b). I commend these amendments to the Committee.

The Hon. GREG PEARCE [9.22 p.m.]: In his second reading the Minister speech apologised for the delay in bringing in this legislation and then went on to say it was quite long and complicated and he expected some amendment would be required. Notwithstanding that it was only a couple of days ago that he introduced the legislation, he is clearly struggling with the job. We understand he will not be here much longer. We are satisfied that these amendments reflect what was intended, and accordingly we do not oppose them.

Amendments agreed to.

The Hon. JOHN TINGLE [9.23 p.m.]: I move the amendment circulated in my name:

Page 17, clause 20. Insert after line 19:

(4) Despite subsection (3), one poker machine entitlement allocated in respect of a hotelier's licence that is held in relation to a country hotel (the ***transferring hotel***) may be transferred in any period of 12 months without the requirements of that subsection applying to the transfer if:

(a) the transfer is to another hotelier's licence that is held in relation to a country hotel, and

(b) the number of approved gaming machines that are authorised to be kept in the transferring hotel does not exceed 8.

(5) Subsection (3) continues to apply in respect of any subsequent transfer, in any period of 12 months, of poker machine entitlements allocated in respect of a hotelier's licence of a transferring hotel as referred to in subsection (4).

Clause 20 relates to the requirements to be met when a hotel seeks to transfer some of its poker machines to another hotel. Subclause (3) as it stands sets out that any transfer must comprise one or more blocks of three poker machine entitlements. That means that any transfer of a hotel's poker machine entitlements must involve at least three poker machines, and at least one of that block of three poker machines must be forfeited to the Liquor Administration Board. My amendment seeks to insert a new subclause (4) to remove the requirement that any transfer must involve at least three machines and that one of them must be forfeit to the board, where the transfer is being made by a country hotel with no more than eight poker machine entitlements and where the transfer is being made to another country hotel.

The amendment proposes that in the case of a non-metropolitan hotel which has no more than eight gaming machines, one poker machine may be transferred in any period of 12 months provided the transfer is to another non-metropolitan hotel and that that should not incur the one-for-two provision required under subclause (3). It should be stressed that this can be done only once every 12 months, and if a second transfer is carried out within that 12 months the limitations in the original subclause (3) will apply. The purpose of this amendment is to lift what could be a heavy burden on small hotels in the country when they seek to transfer only one of their already small number of machines.

Take as an example a small country hotel, the only community social centre in town, which has, say, six poker machines. The publican decides that the time has come to refurbish his hotel, as is the case with many of the small pubs. To finance it he decides that he will sell one of his poker machine entitlements. The proceeds from the sale of one machine will be enough, and he does not want to deplete his entitlement too much. Under the Act as it stands he will be unable to transfer only one; he will be forced to dispense with three machines, including the one which is forfeit to the board.

This amendment would allow him to benefit from the proceeds of the transfer of that one machine, to reduce his entitlement by the minimum amount and keep the basic status quo in his hotel. I stress that this should apply only to hotels with no more than eight machines, for the obvious reason that proportionately a hotel that has fewer than three of the required blocks of three poker machine entitlements, that is fewer than nine machines altogether, is below the threshold at which it has room to move. This amendment is not about the big pubs and clubs and their poker machines. It is about the little pub that is crucial socially and often economically to many country towns in New South Wales. I move this amendment because I believe that these hotels are special places and deserve special consideration. I feel that they need a bit of help and that they should have the weight of the one-for-two provision lifted from them because of their small size and the disproportionate effect of the one-for-two proposal on the small number of machines.

These are usually more than just hotels. Very often they are the centre of the local district and, in places where there are no major registered clubs or any other common community facility, they are also the heart of the community. They are working, functioning, indispensable gathering places for the people who live around them, and their economic stability is very important to the community and the town. I stress that rightly or wrongly

poker machines are now an integral part of many hotels. In the type of small hotel that this amendment refers to they have become necessary parts of the hotel operation, both economically and socially. This amendment is about the economy and stability of the type of small business that is vital to many country centres, particularly the smaller ones. The provisions of the Gaming Machines Bill are commendable, necessary and probably overdue, but I believe they will be fairer and more effective if this amendment is carried. I hope honourable members will support the amendment.

The Hon. RICHARD JONES [9.27 p.m.]: I strongly support the amendment of the Hon. John Tingle. It is a very sensible one and will help a number of small country pubs and clubs. It is a good idea and I hope the Government will accept it.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.28 p.m.]: To put the Hon. Richard Jones out of his misery, I can tell him that the Government certainly does support the amendment.

The Hon. GREG PEARCE [9.28 p.m.]: The Opposition also supports these amendments. Many of these small pubs are important to country towns and their communities. I also point out that the Minister in his second reading speech indicated that he had some reservations about these country pubs. We did not expect that the first test of the country pubs would come tonight, but given that the Minister will not be around much longer, we do not want to wait to have him rectify the problem, so we support the amendment.

The Hon. IAN COHEN [9.29 p.m.]: I put on the record on behalf of the Greens that the eloquent argument put to the Committee by the Hon. John Tingle was convincing.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.29 p.m.]: The Australian Democrats also support this amendment, which is reasonable. We are not saying there should be no gambling machines anywhere.

Reverend the Hon. FRED NILE [9.29 p.m.]: Just to make it clear: the amendment to clause 20 (4) refers to a country hotel. How does one define a country hotel so there is no way that one of the country hotels can sneak into the central business district?

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.29 p.m.]: There is no way known that the Parramatta Leagues Club will be defined as a country hotel.

The Hon. JOHN TINGLE [9.29 p.m.]: Just to clarify the position—the amendment does specify non-metropolitan hotels—some honourable members have previously suggested to me that this provision may lock poker machines into hotels. I just clarify the point that a publican who owns a small country hotel and is interested in reducing his number—for example, if he had six—

Reverend the Hon. Fred Nile: It does not say non-metropolitan hotels.

The Hon. JOHN TINGLE: They cannot drink in non-metropolitan hotels? Okay, they are country hotels. We specified that when moving the amendment. But if a publican did want to reduce these machines by a few—for example, if he had to cut the number of machines by three, thereby cutting in half the number of machines he has, he would not do it. However, if you could reduce the number of machines he has by only one, people who want to see poker machines taken out of hotels should be satisfied, and so should those who want to see them stay put.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.30 p.m.]: To clarify this issue, I point out that the Gaming Machines Bill 2001 defines "metropolitan area"—I will just paraphrase—as the Sydney statistical division, Newcastle/Lake Macquarie and Wollongong. "Country hotels" are hotels that are not in a metropolitan area.

Amendment agreed to.

The CHAIRMAN: Order! I note that Unity amendment No. 5 as circulated cannot be moved as it conflicts with Government amendment No. 9, which has been passed.

The Hon. Dr PETER WONG [9.31 p.m.]: I move Unity amendment No. 4:

No. 4 Page 24, clause 30, line 9. Omit "3 years". Insert instead "5 years".

This amendment provides that poker machines that are allocated to hotels and clubs under the hardship entitlements cannot be sold for five years, rather than the three years mentioned in the bill. Quite simply, if a hotel or club has such hardship that it requires extra poker machines, one would think it would want to hold onto those machines for a reasonable time, and certainly for more than three years—unless, of course, it is simply engaged in profiteering or speculation. I suspect that could happen. A few people became too greedy and were caught out by the poker machine freeze. If that is the case, they should wait a while before they sell off the machines they obtained for virtually nothing.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.32 p.m.]: The Government opposes this amendment. The bill presently prevents a hotel or club from selling any hardship entitlements for a period of three years after they have been approved. The present amendment would extend this period to five years. Three years is considered to be a sufficient time in which to restore a hotel or a club's business to reasonably good health. After that time, the club or hotel should be at liberty to conduct its affairs without the unnecessary intervention of government.

The Hon. GREG PEARCE [9.32 p.m.]: The Opposition does not support this amendment. In fact, it seems to do exactly the opposite of what the Hon. Dr Peter Wong wants to achieve.

Amendment negatived.

The CHAIRMAN: As members have indicated they wish to vote on particular clauses in this part, I will put the questions on the clauses.

Clauses 14 to 16 agreed to.

Clause 17 agreed to.

Clauses 18 to 31 agreed to.

Part 3 as amended agreed to.

Part 4

The Hon. RICHARD JONES [9.33 p.m.], by leave: I move my amendments Nos 1 to 5 in globo:

No. 1 Page 28, clause 38, lines 22, 27 and 29. Omit "3-hour" wherever occurring. Insert instead "4-hour".

No. 2 Page 28, clause 38, line 26. Omit "6 am". Insert instead "5 am".

No. 3 Page 29, clause 40, lines 9, 13, 14, 20 and 25. Omit "3-hour" wherever occurring. Insert instead "4-hour".

No. 4 Page 29, clause 40, lines 11 and 12 and 18. Omit "6 am" wherever occurring. Insert instead "5 am".

No. 5 Page 30, clause 41, lines 11, 12, 17 and 18. Omit "3-hour" wherever occurring. Insert instead "4-hour".

This is an attempt at a compromise between what was originally a six-hour break and the presumably negotiated three-hour break. I am suggesting that the break should commence at 5.00 a.m. instead of 6.00 a.m. because that will give people more time to go home and take an actual break from gambling. I am just hoping that will save some people by letting them break away from the addiction of gambling. That extra hour would be of so much assistance. A four-hour break would enable addicted gamblers to get away and perhaps go back to their wives, who will hopefully give them some kind of treatment so that they will not go back to gambling at the conclusion of the break. I am hoping that the Government will accept this very modest increase in the period of the break from three hours to four hours.

The Hon. GREG PEARCE [9.34 p.m.]: Unfortunately, these amendments demonstrate the worst features of the crossbench. In this legislation we are seeking evidence-based solutions, responsibility, accountability and co-operation, but what do we get? It seems the crossbench has tossed a coin to decide the length of the break—somewhere between six and three. Will it be four, or four and a half? These are quite ridiculous amendments and the Opposition therefore cannot support them.

The Hon. Dr PETER WONG [9.35 p.m.]: I do not understand what the Hon. Greg Pearce is talking about when he refers to evidence-based solutions. The three-hour break is not evidence based either. I think the Government is doing a much better job than he is.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.35 p.m.]: The Government opposes amendments Nos 1 to. 5 and I foreshadow that the Government will also oppose Greens amendment Nos 1, 2 and. 3 and Reverend the Hon. Fred Nile's amendments Nos 1 to 7. All of them have the same sort of impact and would achieve a similar outcome. In the course of consultation over the details of the package, Clubs New South Wales and the Australian Hotels Association have presented persuasive arguments on the impact of an immediate six-hour daily closure of their operations. The Government does not wish to put the jobs of club and hotel employees at risk, nor does it want to suddenly inconvenience club and hotel patrons who may take time to adjust to the proposed trading hours. At the same time, the Government has received views from highly respected community representatives on the importance of an extended shutdown period for problem gamblers.

After considering the arguments and proposals put forward by the industry associations and community groups, the Government still intends to pursue a mandatory standard six-hour shutdown period for gaming machines in the longer term. However it is now proposed to allow a phasing-in period from the commencement of the legislation until 30 April 2003. During that time clubs and hotels will be required to turn off gaming machines for three hours each day between the hours of 6.00 a.m. and 9.00 a.m. From 1 May 2003 the shutdown will be for six hours, from 4.00 a.m. to 10.00 a.m., subject to limited variations. The Greens amendments would remove the phasing-in period entirely. The amendments proposed by the Hon. Richard Jones extend the shutdown period during the interim phase from three to four hours. The Government believes that its interim arrangements represent a sensible strategy, and opposes the amendments.

The Hon. IAN COHEN [9.37 p.m.]: Granted this is a little confusing. Various crossbenchers are promoting various schedules, but the Greens support the Hon. Richard Jones' amendments. The Hon. Ian Macdonald said that jobs will be lost. We have a classic situation whereby people who are addicted to gambling stay right through until the early hours of the morning, but the Government will not shut down clubs and hotels, because it wants to save jobs in the industry. The industry will make a bit more money. This is a classic example of the Government being prepared to sacrifice those who are most vulnerable in its pursuit of the smooth running of an exploitative industry. For once, why does the Government not look at the medical, social and emotional costs associated with problem gambling?

Reverend the Hon. FRED NILE [9.38 p.m.]: The Christian Democratic Party supports the amendments. Obviously the Government has bowed to pressure from the registered clubs and particularly from the Australian Hotels Association. The association wrote to me on 30 October and stated what it wanted. The AHA was unhappy with a six-hour period; it wanted a three-hour shutdown. But I was pleased that the Government announced a six-hour shutdown and I thought we were safe. Subsequently, the Government just bowed to the AHA's request.

The Hon. Dr Peter Wong: That is exactly right.

Reverend the Hon. FRED NILE: Yes. The Opposition asserts that what is proposed in the bill is all evidence based but that the crossbench amendments are not evidence based. The letter from the AHA admits that none of it is evidence based.

The Hon. Greg Pearce: Don't misrepresent me. I didn't say that.

Reverend the Hon. FRED NILE: That is what you said. You ridiculed our amendments.

The Hon. Greg Pearce: I said your amendments are not evidence based.

Reverend the Hon. FRED NILE: That is right.

The Hon. Greg Pearce: Your amendments are so fanciful you have nothing to support them.

Reverend the Hon. FRED NILE: My point is that the Government's bill is not evidence based, either. Where is the Opposition's evidence to support it?

The Hon. Greg Pearce: We are not supporting it.

Reverend the Hon. FRED NILE: You are.

The Hon. Greg Pearce: Your amendments are so fanciful you cannot even agree on them.

Reverend the Hon. FRED NILE: We do agree; we support each other. In terms of reducing the shutdown period to three hours, the letter states that this policy should be instigated for three years and a study should be instituted into its impact on the industry and the gaming public, with any changes to be based on evidential circumstances following a review in three years. It has not yet happened. The Government plucked six hours out of the air. The industry has objected; it wants a shutdown period of three hours. There is nothing wrong with a shutdown period of three, four, five, six or 10 hours. The Hon. Greg Pearce said that the Opposition rejected my amendments because they are not evidence based. None of this is evidence based.

The Hon. Greg Pearce: Exactly! There is no argument.

Reverend the Hon. FRED NILE: That is the argument. The Opposition's argument is not evidence based. That is the principle.

Amendments negatived.

Reverend the Hon. FRED NILE [9.41 p.m.], by leave: I move Christian Democratic Party amendments Nos 1 to 7 in globo:

No. 1 Page 28, clause 38, line 22. Omit "2003". Insert instead "2002".

No. 2 Page 28, clause 38, line 24. Omit "2003". Insert instead "2002".

No. 3 Page 29, clause 39, line 1. Omit "2003". Insert instead "2002".

No. 4 Page 29, clause 39, line 2. Omit "2003". Insert instead "2002".

No. 5 Page 29, clause 40, line 12. Omit "2003". Insert instead "2002".

No. 6 Page 30, clause 41, line 11. Omit "2003". Insert instead "2002".

No. 7 Page 30, clause 41, line 14. Omit "2003". Insert instead "2002".

Earlier this year the Premier made a big fuss, and got a lot of publicity, when he announced that the shutdown period for hotels and clubs would be six hours. For the first time it looked like the Government was responding to community concern. The announcement was made earlier this year and we assumed that the six-hour shutdown period would be included in this bill. Suddenly, the Government has backed down on the shutdown period and made it not six hours but three hours. I was about to say that there was a subtle change, but there has been a sledgehammer change to push all of this forward to 2003. So clause 38 now states:

During the period starting on the commencement of this Division and ending on 30 April 2003 …

The Hon. Dr Arthur Chesterfield-Evans: The Government got the headline.

Reverend the Hon. FRED NILE: That is right; the Government got the headline. The year 2003 is some distance away; it is after the next State election. Indeed, 30 April 2003 may fall when a Coalition government is in office if it wins the next State election.

The Hon. Greg Pearce: You put off workers compensation until after the election.

The CHAIRMAN: Order! Reverend the Hon. Fred Nile has the call.

Reverend the Hon. FRED NILE: The Opposition moved an amendment to that effect. I believe it was a political amendment. I am speaking about the Government's bill, not an amendment. The Government's bill provides for the date of 23 April 2003. Clause 39 provides for the six-hour shutdown period to commence on 1 May 2003. That means that the shutdown will be for three hours until 2003, then the six-hour period will commence on 1 May 2003. I believe that the six-hour period should commence on 1 May 2002. That is reasonable, because there will be sufficient time to make the change after the legislation comes into effect. I believe that is what the Premier effectively promised in his announcement earlier this year. During his announcement he did not say, "In a couple of years I'll do this". He never said that. Everyone regarded the provision of a six-hour shutdown period as an important policy that would be introduced urgently in legislation.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [9.44 p.m.]: Not two days ago I remember Reverend the Hon. Fred Nile saying that it is improper for legislation to come into effect in 2002, just

before the next State election. Given the honourable member's argument that a report on workers compensation should not be provided until after the next State election, I believe the honourable member should not have moved amendment to the date provided in this bill.

The Hon. RICHARD JONES [9.44 p.m.]: I strongly support the amendments moved by Reverend the Hon. Fred Nile. The honourable member was actually saying that the date will be used as a political football.

The Hon. Duncan Gay: Quote his speech back to him.

The Hon. RICHARD JONES: Excuse me, the Deputy Leader of the Opposition does not have the floor. What Reverend the Hon. Fred Nile is saying—

The Hon. Duncan Gay: What Reverend the Hon. Fred Nile is saying is hypocritical.

The Hon. RICHARD JONES: Reverend the Hon. Fred Nile is saying that the date provided in the bill has the potential to be used as a political football, because it is after the next State election. The lobbyists are gambling on the mob opposite keeping its promise to change the date if it wins the next State election. However, if the Coalition wins the next State election it will not keep its promise to change the shutdown period to six hours. The shutdown will never be six hours; it will always be three hours. The lobbyists hope to put pressure on this mob. If the Coalition wins the 2003 election it will quickly change the law to keep the shutdown at three hours. Is that not right?

The Hon. Duncan Gay: It is a different argument to the one Reverend the Hon. Fred Nile used the other night.

The Hon. RICHARD JONES: The date will become a political football again. Reverend the Hon. Fred Nile has done the right thing; these amendments will ensure that the date does not become a political football again.

Reverend the Hon. FRED NILE [9.45 p.m.]: The Deputy Leader of the Opposition has misrepresented me.

The Hon. Duncan Gay: No, I haven't.

Reverend the Hon. FRED NILE: You have. My amendments provide for 1 May 2002. That is not just before the State election, which will be held in March 2003.

[*Interruption*]

This has nothing to do with the election. The Deputy Leader of the Opposition is trying to argue that I have moved my amendments because of the date of the next State election. As for workers compensation, the Opposition moved a motion that made it a political issue. I am trying to ensure that this does not become a political issue in the future. The Deputy Leader of the Opposition has missed the whole point.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.46 p.m.]: For the benefit of the Committee, the Deputy Leader of the Opposition should retire back to the dining room, where he was having a delightful time. The Government opposes these amendments for the reasons I outlined previously in relation to amendments Nos 1 to 5 moved by the Hon. Richard Jones. The Government's position as set out in the clauses is not only rational but also very much evidence based.

Amendments negatived.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.47 p.m.], by leave: I move Government amendments Nos 11 to 13, 17 and 19 in globo:

No. 11 Page 28, clause 38, line 26. Omit "switched off, and is not capable of being operated,". Insert instead "not operated for the purposes of gambling".

No. 12 Page 29, clause 39, line 4. Omit "switched off, and is not capable of being operated,". Insert instead "not operated for the purposes of gambling".

No. 13 Page 29, clause 40, lines 17 and 18. Omit "switched off, and is not capable of being operated,". Insert instead "not operated for the purposes of gambling".

No. 17 Page 30, clause 41, line 26. Omit "switched off, and is not capable of being used,". Insert instead "not operated for the purposes of gambling".

No. 19 Page 31, clause 42, lines 9 and 10. Omit "required to be switched off under". Insert instead "not to be operated for the purposes of gambling in accordance with".

These amendments deal with the mandatory shutting down of gaming machines. Clauses 38 to 42 provide for the interim and long-term shutdown periods. The clauses presently require that during the relevant shutdown period hotels and registered clubs must ensure that all approved gaming machines are switched off and are not capable of being operated. Industry representatives have pointed out that it would be practical to undertake service and maintenance works during the shutdown period, and that this would be prevented if all machines had to be turned off. It is also been pointed out that there will be practical difficulties in turning off all machines in a large venue at exactly the same time. The amendments require hotels and clubs to ensure that gaming machines are not operated for the purpose of gambling during the relevant shutdown period. Compliance with this requirement will be able to be monitored through the central monitoring system.

The Hon. GREG PEARCE [9.48 p.m.]: The Opposition accepts these amendments.

Amendments agreed to.

The Hon. IAN COHEN [9.50 p.m.], by leave: I move Greens amendments Nos 1, 2 and 3 in globo:

No. 1 Page 29, clause 39, line 1. Omit "after 1 May 2003".

No. 2 Page 29, clause 39, line 2. Omit "On and from 1 May 2003, a". Insert instead "A".

No. 3 Page 29, clause 40, line 12. Omit "occurring on or after 1 May 2003".

I have great expectations for these amendments in light of this consideration. These amendments address the phasing in of a mandatory shutdown period. The Government proposes that the shutdown period will require hotels and clubs to close their gambling facilities for at least three hours per day until 30 April 2003, and six hours from 1 May 2003. I have listened to the debate and have supported other amendments. I appreciate Reverend the Hon. Fred Nile's position, but the Greens believe the six-hour period should kick in as soon as the bill is passed.

Reverend the Hon. Fred Nile: I agree with that. I have no problems with that

The Hon. IAN COHEN: I am sure Reverend the Hon. Fred Nile does not have a problem with that. There is no reason for there to be a phasing-in period. There is a huge gambling problem in our community and the sooner these particular harm minimisation provisions are introduced, the better. I believe many people in the community, especially those who work tirelessly in Gamblers Anonymous and other services that are attempting to look after the wellbeing of problem gamblers and their families, will breathe a sigh of relief for what is just a small break in that cycle. Obviously, for the vast majority of people it is not a difficult situation, but there is a significant minority in the community who are addicted to gambling. This shutdown period would provide a very efficient break in the cycle and therefore would save a lot of heartache in people's lives.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.51 p.m.]: The Government opposes the amendments for the reasons I have outlined.

The Hon. GREG PEARCE [9.51 p.m.]: The Opposition does not support the amendments, again for the reasons already outlined.

Amendments negatived.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.52 p.m.], by leave: I move Government amendments Nos 14, 15 and 16 in globo:

No. 14 Page 30, clause 41. Insert after line 5:

(b) was, on a regular basis before 1 January 1997, closed for business between midnight and 10 am for a minimum of 3 hours on at least one day of the week, and

No. 15 Page 30, clause 41, line 6. After "open" insert "and close".

No. 16 Page 30, clause 41, line 22. Omit "early opening times". Insert instead "opening and closing times (as referred to in subsection (1))".

These amendments deal with early openers. The bill provides for a power to vary the standard three-hour and six-hour shutdown periods for hotels and clubs which were, on a regular basis before 1 January 1997—the sort of hotels that the Hon. John Jobling would frequent—open for business before 10.00 a.m. on at least one day of the week, and have continued to open on that basis ever since. The term "early opener" is usually applied to venues that open up early in the morning after a period of closure. However, the way the bill is currently drafted, the early opener variation could apply to 24-hour trading hotels and clubs. This was not intended. Amendments Nos 14, 15 and 16 amend clause 41 to require that venues that seek the early opener variation will have to establish, in addition to the current requirements, that they closed for at least three hours between midnight and 10.00 a.m. on at least one day of the week.

The Hon. GREG PEARCE [9.53 p.m.]: It is not surprising that the Minister in the other place is finally focusing on early openers. He clearly was struggling to get this legislation into shape and, unfortunately, given that he does not have much longer in the job, the Opposition is happy to go along with correcting these amendments. I hope he enjoys the early openers.

Amendments agreed to.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.53 p.m.]: I move Government amendment No. 18:

No. 18 Page 30, clause 41, line 31. Omit "council". Insert instead "consent authority".

Clauses 40 and 41 both provide for variations to the standard shutdown period and both require the agreement of local government. However, clause 40 uses the expression "local consent authority" while clause 41 uses the expression "local council". This amendment will amend clause 41 to bring it in line with clause 40, by using the term "local consent authority".

The Hon. GREG PEARCE [9.54 p.m.]: This is merely a drafting anomaly and is not objectionable.

Amendment agreed to.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [9.54 p.m.]: I move Australian Democrats amendment No. 3:

No. 3 Page 33, clause 45, line 26. Omit "$1,000". Insert instead "$200".

Basically this amendment will lessen the reward that may be offered. Reward schemes exist basically to encourage players to register so that they can be encouraged to use the gaming machines. They may think if they lose the money it does not matter because they can win that $1,000 encouragement prize—frequent loser points, if you like. They may be willing to lose more in the hope of getting the $1,000—yet another gamble on top of the gamble. Whereas, if the reward were a more modest $200, the player may consider it is only worth losing $200 to win the $200 reward. We believe that, rather than having a big prize that is going to encourage players to use poker machines more, there should be a smaller prize. So, we would like to lower the value of the reward prize.

The Hon. IAN MACDONALD (Parliamentary Secretary) [9.55 p.m.]: The Government opposes the amendment. The Gaming Machines Bill introduces a new limit for the first time on the value of prizes that may be offered under a player loyalty scheme or other promotional scheme in relation to gaming machines. This is considered a reasonable amount. There is no justification for reducing the amount to $200.

The Hon. GREG PEARCE [9.56 p.m.]: The Australian Democrats representative has not put forward any arguments in favour of his amendment, therefore we cannot support it.

Amendment negatived.

Reverend the Hon. FRED NILE [9.56 p.m.], by leave: I move my amendments Nos 1, 2 and 3 in globo:

No. 1 Page 34, clause 47, lines 31 and 32. Omit "or encouraging".

No. 2 Page 34, clause 47, lines 32 and 33. Omit "in relation to approved gaming machines". Insert instead ", including the installation of technology, to prevent the irresponsible use of approved gaming machines".

No. 3 Page 35, clause 47. Insert after line 33:

(i) requiring information, notices and messages, of a kind set out in the regulations and any information or notices prescribed under paragraph (e) or (f), to be displayed on the screen of an approved gaming machine.

(3) It is the intention of Parliament that regulations under this section requiring the installation or provision of technology, including regulations under subsection (2) (i), will be made at the time the first principal regulation is made under this Act and that any such regulation will require compliance with the regulation not later than on 1 December 2002.

These amendments all relate to the one issue. The amendments will do something that I understand the Government had planned to do, and should have done in the drafting of the bill. The Government should at least make provision for it because it will come up through the regulations. The amendments will provide the machinery by which the regulations can use this new technology. ECM Technology, a New South Wales company, has, in response to the Department of Gaming and Racing's first determination on technical standards for harm minimisation, developed a device that can plug into all New South Wales gaming machines. This device has been demonstrated to the Minister for Gaming and Racing, Mr Richard Face, his advisers and departmental officers, including Mr Ken Brown and Mrs Jill Hennessy.

In addition, senior department heads from the Liquor Administration Board and the Magistrates Board, including the chair of the board, Mr Amati, have viewed demonstrations of the device and received submissions since December 2000. The New South Wales Council on Problem Gambling, led by the Reverend Chester Carter, after viewing the device has called for its introduction into all gaming machines in New South Wales and has made representations to Mr Face, the Treasurer and the Premier. With reference to the Gaming Machines Bill there is no specific introduction of any of the determinants as identified by the department. It should be noted that the bill and existing Acts still empower the Liquor Administration Board via delegated legislation—that is, regulations—to adopt such a device or technical requirement.

However, there is no specific adoption provision in the bill in regard to these requirements. A major issue is to make this a more immediate requirement as the technology is now available in a plug-in mode. If such a requirement is not put in the bill, implementation of this technology would be at least seven years away, if at all. Implementing harm minimisation technology in machines is a key element to harm minimisation, which is an identified goal of the legislation. A message that I have just received from Reverend Chester Carter, President of the New South Wales Council on Problem Gambling, reads:

This new device is called the AAPPS or the Automated Assisted Patron Protection System.

The AAPPS system has been designed to provide state of the art technology that will help problem gambler while still allowing the poker machine to function normally.

It will display on the screen information, such as: Credit amounts in "real" dollars, the amount of time and money spent by the player and the amount of money won by the player. Other functions can include a restrict function of "play through" on auto gamble, a message display of help services for problem gamblers and a time delay when a significant win is made allowing the player to assess their winnings and leave.

When dealing with problem gambling, "reality basing" is one of the best help therapies available so if this was provided by Clubs and Pubs then the message it is sending to their patrons is one about "duty of care".

With the introduction NSW Government due to pass new gambling reforms this technology is timely in that it will address certain points to do with the provision of "responsible gaming" by the Gaming Industry that will benefit the community, the operators and their patrons.

As President of the NSW Council on Problem Gambling I believe the implementation of this device State wide is a step in the right direction.

The manufacturers of this Device are an Australian company ECM TECHNOLOGY Pty Ltd …

This will provide the Minister for State Development with an opportunity for business expansion for ECM Technology Pty Ltd, and it will be a win for everyone. The amendments to the bill will open the door and provide an opportunity for the Government to include the detail in the regulations, so it is a most reasonable proposal.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.01 p.m.]: Christian Democratic Party amendments Nos 1 and 2 limit the current regulation-making power in relation to responsible practices relating to gaming machines. They narrow the regulation-making power by removing the ability to make regulations that are aimed at encouraging responsible practices. There are many cases in which practices such as the adoption of industry standards have a beneficial impact on harm minimisation. Only regulations that require the adoption of responsible gambling practices will be able to be made. This is too restrictive. The regulation-making power is also restricted so as not to apply to gaming machines generally, but to refer to the installation of technology. This is too restrictive and could limit the capacity to make more general regulations that do not have a technology base. Christian Democratic Party amendment No. 3 is similar to some of those proposed by the Australian Democrats, in that it requires the almost immediate installation of particular technology to display messages on gaming machines. The Government opposes this amendment for the same reason it opposes the Democrats amendment No. 4.

Reverend the Hon. FRED NILE [10.02 p.m.]: The Hon. Ian Macdonald just said that these amendments restrict the regulations. They do not change any of the wording of the bill relating to the regulations. That advice is contrary to the amendments I have moved. They will not change any wording in the regulations. Clause 47 states:

> (1) The regulations may make provision …

We have not changed the regulation. We are only inserting the words "including the installation of technology, to prevent the irresponsible use of approved gaming machines". Amendment No. 3 states, "requiring information, notices and messages". It does not reduce the regulation powers but expands them. My amendments do not delete anything from the bill.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.03 p.m.]: That is not my advice. The Liquor Administration Board has been seriously considering introducing a requirement to display certain information on gaming machines. This has been undertaken as part of a full public consultation process. The board's various determinations as part of this process are available for downloading from the Department of Gaming and Racing web site. It has been a transparent process, unlike the consultation behind closed doors on these issues that the Australian Democrats seem to have been involved in. The board has adopted a very detailed proposal in relation to requiring the display of player information on gaming machines. However, as part of the consultation process it has sought views from industry and community representatives alike on the most appropriate commencement date for this requirement. It is understood that the board has also been considering some technology that is currently available and that can provide some limited player information, but not to the same detail as proposed in the board's published determination. It might be fair to assume that this technology is driving the amendments moved by the Australian Democrats. There is clearly an impartial and transparent process currently under way to determine the most appropriate gaming machine design features. For those reasons the Government opposes the amendments moved by Reverend the Hon. Fred Nile.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.05 p.m.]: Christian Democratic Party amendment No. 3, in particular, is the gold standard in amendments that we have to go to the wall for. These amendments are a slight expansion of Australian Democrats amendment No. 4, which I have said I will not move, because of these amendments. They basically say that the technology exists to put a warning on the gaming screen indicating how much money a player has lost. Every machine that collects money is capable of giving such a warning. The gambler is, therefore, reminded of how much money he has lost and he has to consider whether he wants to continue with the game. The gambler's train of thought is broken deliberately. These amendments will enable the technology to be put in the regulation, and Reverend the Hon. Fred Nile has insisted that it be put in the regulation. It has been demonstrated to relevant people in the Government that the technology exists and provision for it should have been included in this bill.

It is extraordinary that the Government will close hotels and clubs for three hours, but it will not confront gamblers when they are awake and may be impacted by this technology. These amendments are critical. Technology has been very much neglected in this debate. Honourable members have been too concerned with the mechanics, the numbers of machines and times when the hotels and clubs should open. This is Neanderthal-type technology and the potential for losses to keep multiplying is significant. These

amendments will allow the technology to be put in front of gamblers. If honourable members are committed to getting rid of problem gambling, they should support these amendments. I am very disappointed that the Government has not seen its way clear to support them. I presume the Opposition does not support them either.

It is a bit rich for the Government to accuse me of working behind closed doors. I do not have access to large numbers of people in open forums, as the Government does. It is the Government's job to be involved in consultations. Too often the Government has a predetermined agenda and expects the Parliament to rubber-stamp that agenda. The Government has made a series of deals outside this House that it is not willing to break, yet it accuses us of working behind closed doors. That is a ridiculous accusation from a government that makes its own deals behind closed doors and expects this House to rubber-stamp them. If honourable members care about gambling, they will support these amendments.

The Hon. GREG PEARCE [10.08 p.m.]: I congratulate Reverend the Hon. Fred Nile on raising this issue because it certainly seems to be quite a laudable potential improvement, but we have to be careful not to move ahead irresponsibly with amendments by ambush. The only real evidence that this technology exists, other than the statement of Reverend the Hon. Fred Nile, is the statement of the representative of the Australian Democrats. We do not have any information on its costing or licensing, whether it works or what backup is available. We certainly do not have any information, for example, in relation to proposed amendment No. 3, in relation to which compliance with the regulation is required by no later than 1 December 2002. If this technology works, no-one knows what impacts are involved in its implementation.

Whilst the Opposition applauds the sentiment, we cannot have this sort of naive crossbench amendment by ambush with no accountability or opportunity to evaluate and test the equipment. I certainly hope that the Government will ensure that such equipment is evaluated and tested as quickly as possible and incorporated sensibly into the legislation.

The Hon. JOHN TINGLE [10.10 p.m.]: I believe the amendment has merit. Before we throw it away or simply reject it, we ought to look a little more closely at what Reverend the Hon. Fred Nile has said. Most people would accept that warnings of the type proposed can have a double-barrel effect. They can turn somebody off something or become so familiar that they are no longer noticed. The warnings on cigarette packets probably do not have any effect. I do not know how many people read cigarette packets in detail. I know people who as soon as they see a warning that a television program coming up contains sex scenes would not miss the show for quids. Sometimes these warnings work the wrong way.

As the Hon. Greg Pearce said, we do not know much about this technology. I suggest to the Government that if the amendment is defeated it might at least give an undertaking, as the Deputy Leader of the Opposition interposed, to properly evaluate the technology. Perhaps it would be worth having a trial of, say, 500 machines to see whether the warnings have any effect. In the line of warnings about sex scenes in movies, it is just possible that when a person operating a poker machine sees a message saying he has lost $45 he might think that he had better keep playing to try to win the money back. It is a two-edged sword. I do not know the answer but at this stage of the debate we ought to be prepared to acknowledge that there might be something in the proposal. I would be very grateful if the Government, instead of just rejecting the amendment, undertook at least to keep the issue under consideration to see whether whatever system is available is worth a trial.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [10.12 p.m.]: Mr Chairman—

Reverend the Hon. Fred Nile: Would you please speak to the amendment? Look at the amendment. It has no brand. It just relates to the regulation-making power.

The Hon. DUNCAN GAY: I thank Reverend the Hon. Fred Nile for his prompting. I say from the start that I am persuaded by what he wants to do. Whilst I will not support the amendment, I think the philosophy behind what he wants to do is laudable and should be supported. I listened to the dissertation of the Hon. Dr Arthur Chesterfield-Evans on this matter during the second reading debate. I was persuaded by the argument that he put forward. But, equally, the Government has indicated that what Reverend the Hon. Fred Nile has—

The Hon. Jan Burnswoods: You are having a bob each way.

The Hon. DUNCAN GAY: Yes, I am having a bob each way, but I will come down one way.

The Hon. Jan Burnswoods: That is gambling!

The Hon. DUNCAN GAY: Yes, but it is a gambling bill. The amendment would allow the Government to make a regulation in a certain area. The very nature of the amendment is restrictive in not allowing the Government to do other things that it may wish to do by regulation. I am not normally persuaded by the arguments of the Hon. Ian Macdonald but I think he made a pretty forceful point in this regard. Another important point that he made was that the proposal involves one form of technology and there are probably other forms available that the Government is evaluating. I might have heard incorrectly but the impression I gained was that the Government had an obligation to evaluate the situation and to move in that direction. The Parliamentary Secretary, in his ministerial capacity, may reinforce what I said or say that I am incorrect, but that was my understanding. Given that understanding, I agree with our leader that we should oppose the amendment.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.14 p.m.]: The Government has a lot of sympathy with what Reverend the Hon. Fred Nile is trying to do: find new techniques to add to the harm minimisation strategies in relation to gambling machines.

Reverend the Hon. Fred Nile: To help you.

The Hon. IAN MACDONALD: Hold on a second. The Hon. John Tingle was correct in the latter part of his speech. The bill provides that regulations may make provision for or with respect to requiring or encouraging the adoption of responsible practices in relation to approved gaming machines in hotels and registered clubs. In other words, the Government wants to encourage it and, under regulation, has the ability to require it. But it has the choice. The first amendment of Reverend the Hon. Fred Nile would delete the words "or encouraging". That would make it a requirement. Then, instead of leaving the looser words "in relation to approved gaming machines", Reverend the Hon. Fred Nile would insert "including installation of technology to prevent the irresponsible use of approved gaming machines". To some extent that may be okay, except that it drops the encouraging bit and makes it a requirement.

But the hit is that the third amendment states, "It is the intention of Parliament that regulations under this section requiring the installation or provision of technology, including regulations under subsection 2 (i), will be made at the time the first principal regulation is made under this Act and that any such regulation will require compliance with the regulation not later than on 1 December 2002". That is restricting it. That is making the whole process mandatory. There is no encouraging.

Reverend the Hon. Fred Nile: It is in 12 months time.

The Hon. IAN MACDONALD: Yes. It has been pointed out that there may be a series of ways of going about this and we have to take into account the overarching point made by the Hon. John Tingle: We have to be careful not to pursue a course of action that will worsen the problem we are addressing. The amendments would force the Government down a certain course, and down that course by 1 December next year.

Reverend the Hon. FRED NILE [10.17 p.m.]: All the amendment would do is give the Government regulation-making powers. It would extend the power of the Government. The Government does not have power under the bill. Clause 47 contains the words "in relation to approved gaming machines". It does not say anything about new technology. The Government should have regulation-making powers for when it finds the right equipment. It need not be the ECM company. The amendment does not stipulate any brand or type of equipment. It would just give the Government power to make regulations after investigating the issue. That ability is not provided in the bill as it is. Reverend Chester Carter says that if the Government does not accept the amendment it could be setting in place a delay of seven years because the bill will have to be amended to introduce a new technology when the Government finds it. This may not be the right technology. I am trying to give the Government the power to investigate it, find the right technology and then move ahead with regulations. The Government does not have the power to do it as the bill is presently drafted.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.18 p.m.]: As I have pointed out, the Government does have the power to do that.

Reverend the Hon. Fred Nile: It does not say that.

The Hon. IAN MACDONALD: It does in another section.

Reverend the Hon. Fred Nile: What section?

The Hon. IAN MACDONALD: In clause 210. The essence of the amendment is deleting the words "or encouraging". So it is being made a requirement that all this should happen, and that it should happen before 1 December 2002.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.19 p.m.]: I understand that the Liquor Administration Board set guidelines for technology and the machine in question was developed in response to those guidelines. The cost is $500 per poker machine. It is transferable to a new poker machine if the old one is replaced. It lasts at least five years, which means that it costs only $100 a year, which is very little. It takes less than 30 minutes per poker machine to install. The company guarantees to do the whole State in less than nine months. If the Government is going to look after the TAB in relation to other aspects of this bill it should at least look hard at technology that has been demonstrated to work to lessen gambling.

It is said that the aim of the bill is to prohibit all hotels and clubs from operating these machines for three hours a day, supposedly to break the habit of gambling by giving players a break. The amendment should be more effective because it will result in such breaks being taken far more frequently. I have no particular connection with this technology, but I am committed to obtaining a result. I understand from a number of sources that this technology works very well. Then why should it not be implemented? When TABCorp wanted to bring in its technology there did not seem to be any problem. When it wants to protect its technology, that does not seem to be a problem either.

Reverend the Hon. FRED NILE [10.21 p.m.]: The amendment I have moved makes no reference whatsoever to any type of equipment or company. It refers to the provision of technology. That does not identify a company. I have no interest in the company. I have made it clear that this amendment relates to the introduction of technology. Both the Government and the Opposition say that the matter dealt with in the amendment is covered in section 210. I cannot find section 210.

The Hon. Ian Macdonald: Section 210?

Reverend the Hon. FRED NILE: Of the regulations. There is no reference to this technology whatsoever. It refers to approved gaming machines. That is a poker machine for gambling. The amendment refers to the use of new technology. There appears to be no power in relation to this in the bill. It is strange that the Government does not want that power.

Question—That the amendments be agreed to—put.

The Committee divided.

Ayes, 13

Mr Breen	Reverend Nile	Dr Wong
Mr Cohen	Mr Oldfield	
Mr Corbett	Ms Rhiannon	*Tellers,*
Mr R. S. L. Jones	Mrs Sham-Ho	Dr Chesterfield-Evans
Mrs Nile	Mr Tingle	Mr M. I. Jones

Noes, 23

Dr Burgmann	Mr Gay	Mr Ryan
Ms Burnswoods	Mr Harwin	Ms Saffin
Mr Costa	Mr Hatzistergos	Mr Samios
Mr Dyer	Mr Lynn	Mr Tsang
Ms Fazio	Mr Macdonald	Mr West
Mrs Forsythe	Mr Moppett	*Tellers,*
Mr Gallacher	Mr Pearce	Mr Jobling
Miss Gardiner	Dr Pezzutti	Mr Primrose

Question resolved in the negative.

Amendments negatived.

Part 4 as amended agreed to.

Part 5 agreed to.

Part 6

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.28 p.m.]: I move Australian Democrats amendment No. 5:

No. 5 Page 56, clause 74. Insert after line 17:

(3) Nothing in this section prevents a hotelier or registered club from obtaining funding in relation to the business conducted by the hotelier or club, including in relation to the keeping of approved gaming machines, from any person other than the holder of an investment licence so long as the arrangements in respect of that funding are approved by the Board.

This provision provides that hoteliers may obtain an investment licence from a source other than TAB Ltd. This is a clear statement that hoteliers may obtain investment finance from other sources. The amendment is necessary because it has been suggested that the exclusive licence agreement granted to the TAB provides that it is the source of finance for hoteliers. Hoteliers must have freedom to make their own investments, and the amendment supports that right.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.30 p.m.]: This is yet another attempt to break into the exclusive licences currently held by the TAB. The investment licences issued to the TAB formed part of the prospectus issued prior to its privatisation. The various licences issued to the TAB were designed to return revenue to the racing industry, but because they formed part of the prospectus a great many ordinary citizens of New South Wales would have made decisions based on the stated exclusivity of those licences. The Australian Democrats would reduce the value of the shareholdings of ordinary mums and dads by changing the basic ground rules that applied at the time they made their investment decisions. Consequently, the Government strongly opposes this amendment.

The Hon. GREG PEARCE [10.31 p.m.]: The Opposition opposes the amendment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.31 p.m.]: If the Minister is basically admitting that there is a tie, and that they cannot borrow, I ask him to give the terms of that tied arrangement, which I think would be a restrictive trade practice.

Amendment negatived.

Part 6 agreed to.

Parts 7 and 8 agreed to.

Part 9

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [10.32 p.m.], by leave: I move Australian Democrats amendments Nos 6 to 8 in globo:

No. 6 Page 100, clause 139. Insert after line 29:

(d) requiring CMS information to be made publicly available except in any case where to do so would affect the personal safety of any person.

No. 7 Page 117, clause 169. Insert after line 28:

(3) Nothing in this section is taken to provide the CMS licensee with any exclusive rights or protection from the *Trade Practices Act 1974* of the Commonwealth or the *Competition Code of New South Wales* otherwise than for the purposes of operating a CMS or an authorised linked gaming system.

No. 8 Page 123, clause 177. Insert after line 8:

(iv) requiring the CMS licensee to provide access to the network of the CMS so long as it does not interfere with the operation of the CMS, and

Amendment No. 6 refers to clause 139, which deals with information collected by the gambling machines. Data about gambling must be made publicly available to allow free and informed comment about how much people are losing, where they are losing it, how quickly they losing, and so on. That information is necessary for research. The public has made it abundantly clear that gambling, particularly gambling on poker machines, is a deep community concern. No progress can be made without data, and this data must be made available. Senator

Vanstone, as Chair of the Ministerial Council on Gambling, undertook in a letter to the Australian Democrats Senator John Woodley that such information would be made available as part of the agreement for allowing gaming machines to be connected to the telecommunications network under the Federal Interactive Gaming Act.

If the attempt to ban Internet gambling had been successful, all gambling machines connected to telecommunications networks—effectively all gambling machines in Australia—would have become illegal as a side effect, if you like, of the Act. That commitment was given by Senator Vanstone to Senator Woodley and I understand that the Ministerial Council on Gambling is in favour of it. New South Wales should be proactive on this matter because the data is extremely important. To use the tobacco parallel, the tobacco industry said that its advertising did not work and yet it had information of its launches and the sales results. When the New Zealanders accessed sales data from tobacconists and shops immediately after advertising blitzes, they were able to see the effect of the blitzes. Yet the industry which had that data had not been willing to release it for many years.

The data on gambling is very important if we are to carry out any research. This evening the point was made that we have not had good research data on the effects of gambling. Obviously if we are to test something like a message on a screen or we want to know when people are gambling, how much money is gambled, how much individuals are gambling and which games are taking the most money, we must have access to that information. There is no reason that the information should not be made available. It is not reasonable to say that that information is private and cannot be used for the public good.

Amendment No. 7 refers to clause 169. The amendment makes it clear that the protection of the TAB from the Trade Practices Act competition code applies only to the specific purpose of a centralised monitoring system, that is the monitoring of the links and not for any other purpose. The centralised monitoring system [CMS] has created a network that can be used for purposes other than centralised monitoring and linking of jackpots. The system was built for the centralised monitoring and linking of jackpots but could be used for providing PubTAB or ClubTAB facilities or ecommerce solutions for the liquor industry. The hoteliers and registered clubs effectively paid for the CMS network through their charges, and as such the CMS licensees should not derive undue commercial advantage from the creation of the network.

An analogy of that situation is that Telstra had to share its network with other telephone companies on terms determined by the Australian Communications Authority. The CMS can and should be used by the TAB for its own purposes, but there is no reason that that network should be used exclusively for that purpose and for no other purpose. A non-commercial use, of course, might be that problem gamblers could be identified and helped through the network. The system of messages going to individuals could be tailored through the network, and that should be done in the public interest. The system opens up both of those possibilities. That determination makes it clear that this is a restrictive trade practice according to both the Australian Communications Authority and the Australian Competition and Consumer Commission.

Amendment No. 8 is consequential to amendment No. 7. Basically, it states that the network is not for the exclusive use of the TAB. The Minister can direct that third parties can access the network that is created for running the CMS, that it is not for TAB Ltd alone. That network was installed by TAB Ltd but was paid for by hoteliers and clubs through their users fees. The Minister can direct that the network be available to third parties, provided that such utilisation does not impact on the network's primary purpose, which is the monitoring and linking of gambling machines. Effectively, under this amendment, the Minister would be able to do something to help gamblers in New South Wales. Of course, that is the stated object of the bill. I commend my amendments Nos 6, 7 and 8 to the Committee. I believe they are significant and good amendments.

The Hon. GREG PEARCE [10.37 p.m.]: That was a load of confusing waffle from the Australian Democrat in this place. However, I am pleased that the representative of the Australian Democrats mentioned his Senate colleague, because at least that allows us to see that there is some sort of difference between that Australian Democrat in the Senate, clearly a triumph of style over substance, and the Australian Democrat in this place, who has neither style nor substance. The Australian Democrat has told us about how he filibustered through semantics in his earlier speeches. Unfortunately this part of his contribution to debate is summed up by his tie, which I notice features the characters from *South Park*. Certainly nothing in what he has said gives the Opposition any reason to support his amendments, and therefore the Opposition does not support them.

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.39 p.m.]: The Government opposes these amendments.

Amendments negatived.

Part 9 agreed to.

Parts 10 to 15 agreed to.

Schedule 1 agreed to.

Schedule 2

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.41 p.m.], by leave: I move Government amendments Nos 21 to 23 in globo:

No. 21 Page 160, schedule 2 [45], line 7. After "person" insert "personally".

No. 22 Page 164, schedule 3 [11], lines 17 to 23. Omit all words on those lines. Insert instead:

(i) the total value of the remuneration packages (comprising salary, allowances and other benefits) of over $100,000 per year paid or payable to the 5 highest paid employees of the club (as reported alongside each successive $10,000 band of income over $100,000),

No. 23 Page 177, schedule 3 [48], line 30. After "person" insert "personally".

Amendments Nos 21 and 23 insert the word "personally" after "person" in two places in the liquor and registered clubs Acts. These amendments are aimed at improving the drafting of the bill and were identified by Parliamentary Counsel. In relation to amendment No. 22, Item [10] of schedule 3 will amend section 10 (1) of the Registered Clubs Act to require clubs to disclose "details of any remuneration packages" of the five highest paid executives earning more than $100,000 per annum. Club representatives have expressed concern that this might be interpreted as requiring disclosure of details, such as the amount spent on school fees for a particular school. This level of detail could represent a serious privacy intrusion as well as a possible security threat to family members of club executives. The aim of the provision is simply to require the disclosure of information about the total dollar value of any remuneration package, not the details of how that remuneration package is structured. Accordingly, this amendment will amend item [10] of schedule 3 to require disclosure of the total value of the remuneration package.

The Hon. GREG PEARCE [10.42 p.m.]: The Opposition does not oppose these amendments.

Amendments agreed to

Schedule 2 as amended agreed to.

Schedules 3 to 5 agreed to.

Title agreed to.

Bill reported from Committee with amendments.

Adoption of Report

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.45 p.m.]: I move:

That the report be now adopted.

Amendment of the Hon. Peter Primrose agreed to:

That the question be amended by omitting all the words after "That" and inserting instead "this bill be recommitted with a view to further consideration of clause 53."

Motion as amended agreed to.

In Committee (Recommittal)

Recommitted clause 53

The Hon. IAN MACDONALD (Parliamentary Secretary) [10.45 p.m.]: I move Government amendment No. 20:

No. 20 Page 39, clause 53, line 30. Omit "proof". Insert instead "evidence".

Clauses 53 and 54 relate to persons being required to produce evidence of their age. Clause 53 uses the expression "proof of age". Amendment No. 20 changes that expression to "evidence of age" for consistency with clause 54, as well as consistency with similar provisions in the liquor and registered clubs Acts.

The Hon. GREG PEARCE [10.45 p.m.]: This is a minor drafting amendment and the Opposition does not oppose it.

Amendment agreed to.

Recommitted clause 53 as amended agreed to.

Bill reported from Committee secundo with a further amendment and passed through remaining stages.

NATIONAL PARKS AND WILDLIFE AMENDMENT BILL

Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary), [10.47 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

In 1999, the then Governor, the Honourable Gordon Samuels, announced that the *National Parks and Wildlife Act 1974* would be reviewed. True to this commitment, the Government has developed a package of amendments to strengthen the State's legislative framework for the conservation of natural and cultural heritage.

The *National Parks and Wildlife Amendment Bill 2001* represents a vital initiative to provide the contemporary and innovative tools needed to better manage our national parks estate.

The proposals contained in this Bill address major deficiencies and anomalies in the existing legislation, and provide a statutory framework which will advance the Government's wider agenda for conservation in this State.

Let me say at the outset that, since this Bill was tabled in the other place, the Government has engaged in extensive consultations with numerous stakeholders, including the National Parks Association, the Total Environment Centre, the Nature Conservation Council, the Colong Foundation for Wilderness, the Local Government and Shires Associations, the NSW Aboriginal Land Council, the National Parks and Wildlife Advisory Council, the Minerals Council, Honourable Members from both Houses, the NSW Farmers Association and the Urban Development Institute.

These consultations have been productive and I can advise the House that the Government will be moving a number of amendments and accepting a number of others during the Committee stage of this debate. The Government does not intend to proceed to the Committee stage until these amendments have been finalised.

The *National Parks and Wildlife Act 1974* is the last significant statute in the environmental portfolio that has not been modernised. Now more than 25 years old, it has been amended on numerous occasions in an ad hoc fashion. Not surprisingly, it contains redundant and outdated provisions, together with some significant omissions.

Gaps in the legislation and the obsolete nature of many of its provisions are increasingly affecting the National Parks and Wildlife Service's capacity to effectively and efficiently manage the national parks estate, which under this government has increased in area by 1.35 million hectares to now cover some 6.7 per cent of New South Wales.

This Bill responds to changing community expectations in this area, and provides the means by which progressive and internationally accepted principles can be applied to the conservation of natural and cultural heritage in New South Wales. Without these amendments, the National Parks and Wildlife Service will continue to struggle with an increasing number of often competing and complex conservation priorities and issues that require a clear and precise response.

In order to allow sufficient time for the amendments to be properly incorporated into the National Parks and Wildlife Service's administrative procedures, provisions within the Bill allow for differential commencement of sections of the Bill by proclamation.

Objects for the National Parks and Wildlife Act

The National Parks and Wildlife Act currently does not contain an objects clause. This is essential to establish a clear framework for the functions of the Minister for the Environment, the Director-General of the National Parks and Wildlife Service and the National Parks and Wildlife Service itself.

Accordingly, the Bill sets out a proposed set of objects for the Act. These are consistent with the current role of the National Parks and Wildlife Service, and will better guide the Act's administration. This amendment will provide an unambiguous statement of the legislation's intent, as well as assisting in legislative interpretation.

Importantly, the objects will serve to reinforce the fundamental importance of the conservation of nature, including the conservation of ecosystems, biodiversity and significant landforms under the Act.

They will also focus the Act on the conservation of our cultural heritage, both Aboriginal and historic. Public appreciation, understanding and enjoyment of nature and cultural heritage, and their conservation, will likewise be enshrined in the objects.

This Government is committed to working with the community to deliver on environmental, social and economic objectives. By requiring that the objects of the Act will be pursued within the framework of ecologically sustainable development, the Bill will give statutory backing to this commitment for the operations of the National Parks and Wildlife Service. This follows the precedent already set by this Government in its other progressive environmental and natural resource legislative reforms.

Reserve establishment and management principles

The establishment and management of reserves are two key functions of the National Parks and Wildlife Service.

However, the Act does not contain sufficiently clear principles to adequately guide the agency in these areas. The current reserve establishment principles in the Act are antiquated and do not adequately reflect the Government's reserve establishment policies.

This situation has generated a number of practical difficulties for the National Parks and Wildlife Service in performing its statutory functions. This has in some instances caused public confusion regarding the purpose of reservation of large areas of land.

To overcome these difficulties, the Bill identifies principles for investigating additions to the reserve system consistent with the Government's current policies on reserve establishment.

The new establishment principles will:

- clarify for the community generally why certain land is designated for reservation; and
- increase the level of accountability in the exercise of this key function by the National Parks and Wildlife Service.

The Act also lacks clear principles for the management of the various reserve categories. To the extent that such principles exist, they are scattered throughout the various provisions of the Act. This has caused difficulties for the National Parks and Wildlife Service in determining what activities and management arrangements can lawfully be undertaken within each reserve category, and has often lead to significant confusion and inconsistencies.

The Bill therefore establishes a clear set of management principles for each reserve category. The proposed management principles will provide a more transparent and modern framework for reserve management by clarifying the purpose of reservation within certain categories, as well as the long-term management objectives of those lands.

The management principles, which are modelled on internationally accepted principles for reserve management developed by the International Union for the Conservation of Nature, will also clarify the National Parks and Wildlife Service's accountability for reserve management and, over time, will lead to more efficient and effective management of the reserve system.

I understand that a number of amendments will be moved to these provisions in the Bill.

Plans of management

Proposed section 72AA of the Bill contains new provisions for developing plans of management. These will be the same for all reserve categories and are modelled on the existing provisions for plans of management for national parks.

Under this proposal, there will be a public consultation period of not less than 60 days for plans of management, instead of 30 days. However, it will be possible for the Minister for the Environment to make minor changes only to plans of management without publicly exhibiting those amendments, provided that the relevant advisory committee has been consulted on those amendments.

The Bill also provides that the Minister for Fisheries will have a concurrence role for plans of management in so far as they relate to the inter-tidal zone.

Amendments to the "state recreation areas" reserve category

The Bill proposes to rename existing "state recreation areas" as "state conservation areas."

The Bill defines the management principles of the re-named reserve category to include conservation objectives and recreation, as opposed to being largely focussed on recreation alone. It will be possible to have other uses in state conservation areas, including mining and mineral exploration, as is currently the case with state recreation areas.

This new reserve category will accommodate those Crown reserves listed in Schedule 4 of the *Forestry and National Park Estate Act* 1998 and Schedule 4 of the *National Park Estate (Southern Region Reservations) Act* 2000, and which are currently managed by the National Park and Wildlife Reserve Trust as conservation areas that allow for mining and mineral exploration.

These Crown Reserves will be transferred to the new state conservation area category through gazettal on a case by case basis, after review by the National Parks and Wildlife Service, the Department of Land and Water Conservation, and the Department of Mineral Resources.

The Bill will also require the Minister for the Environment, in consultation with the Minister for Mineral Resources, to undertake a review of state conservation areas every five years.

As a result of the review, the Minister has the ability to transfer any identified lands to either a national park or nature reserve, by publication of an order in the Gazette, with the concurrence of the Minister for Mineral Resources. Where an existing mine or other mineral interest is operating in a state conservation area, the five year review will not impact on existing mining interests and renewals of those interests.

As is currently the case with state recreation areas, new mining and mineral exploration within state conservation areas will require the concurrence of the Minister for the Environment. By including in the management principles for this re-named reserve category a conservation focus, state conservation areas will provide for the co-existence of mining and mineral exploration with conservation and appropriate recreational activities.

This provides an opportunity for lands which would otherwise have not been available for active conservation management due to mineral interests to be included in the reserve system. This is especially relevant to meeting the Government's commitment in *Action for the Environment* to focus on appropriate reservations in Western NSW. Clearly, mining and mineral exploration activities within such land would need to have regard to natural and cultural values and this is provided for in the Bill.

The Government intends to reserve lands under the state conservation area category only where conservation values and mineral values do not allow for reservation under another reserve category, such as national park or nature reserve. In addition to the Crown Reserves I have mentioned, this will potentially facilitate the reservation and management for conservation of lands in Western NSW which are the subject of petroleum, gas and mineral exploration or extraction activities. This may include land already acquired for reservation by government but which are yet to be gazetted.

It will also potentially facilitate the further transfer of lands to the national park estate within the Sydney Catchment Authority Special Areas, which have existing mining activities, but cannot be reserved under the state recreation area category because of the obvious inappropriateness of its focus on recreation.

Protocols to direct when use of the state conservation area category is appropriate, and matters associated with their future management, will be developed by the Government in consultation with peak conservation groups and mining interests such as the Minerals Council.

Aboriginal cultural heritage

The current Act relies on terminology relating to Aboriginal cultural heritage that is antiquated and, in some instances, no longer appropriate or consistent with contemporary understanding.

The Bill replaces the term "Aboriginal relics" which appear throughout the Act, with "Aboriginal objects" to reflect the living nature of Aboriginal heritage.

The impacts of development in relation to Aboriginal cultural heritage are controlled primarily through section 90 of the Act, which creates an offence to "knowingly" destroy, deface or damage an Aboriginal place or relic without a consent from the Director General of the National Parks and Wildlife Service.

The necessity to establish intent (ie that a person knowingly destroyed an Aboriginal relic) has caused major problems in bringing successful prosecution under this section of the Act.

Under the provisions of the Bill, a person must not destroy, damage, desecrate, or cause or permit the destruction, defacement, damage or desecration of an Aboriginal place or object.

These provisions remove the necessity to establish intent currently in the Act, and extends the range of offences to cover a broader range of actions that may destroy, or otherwise damage Aboriginal places or objects.

The Bill also creates a defence to prosecution under the new offence. A person who has undertaken reasonable precautions and has exercised due diligence and reasonably believed that their actions would not destroy, deface or desecrate the Aboriginal place or object, has a defence from prosecution under the new section 90.

As a further measure to ensure maximum protection of Aboriginal heritage, these proposed amendments will also enable a court, where it convicts a person under this section, to direct them to mitigate the damage or restore or take other specified action to preserve or protect the object or place concerned. This may be in addition to, or in substitution of, any penalty for the offence.

Similar provisions exist elsewhere in the *National Parks and Wildlife Act* and in legislation administered, for example, by the Environment Protection Authority.

Leasing and licensing

The Bill will clarify the Minister for Environment’s power to grant leases and licences for exclusive purposes over structures, buildings and modified natural areas within the park estate.

This Bill will enable funds raised by the leasing and licensing arrangements to be used for conservation purposes within the national parks estate, including the conservation of historically significant buildings.

The new provisions will allow sensible, low impact proposals on reserved lands, focussing on the adaptive re-use of buildings, and will thereby increase economic development opportunities for rural and regional communities.

Leases and licences must have regard to the conservation values of the reserve. In addition, the purposes for which the licences and leases can be granted must be expressly permitted in a Plan of Management.

Under section 151B(2) of the Bill, the Minister for the Environment may grant a **lease** of land within a reserve to enable the adaptive re-use of an existing building or structure on the land.

The adaptive reuse of a building or structure will be defined in the Act as the modification of a building or structure, and its curtilage, to suit an existing or proposed use. It must be carried out in a sustainable manner, and be compatible with the retention of the cultural significance of the building or structures.

Currently, the Service manages over 5000 historic items across NSW. A large proportion of these items include buildings and other structures.

Examples include:

- Defence sites at Goat Island, Fort Denison and Bantry Bay Explosives Magazine,
- Lighthouses at Barranjoey, Smokey Cape, Montague Island, Cape Byron, and Green Cape.
- Old historic homes including Scheyville, Greycliffe House, Throsby Park, Roto House.
- Numerous homesteads, woolsheds and shearing complexes including Currango, Willandra, East Kunderang, Yengo, Kinchega and Mungo and Mt Wood station
- Historic villages such as Hartley Village (including Farmers Inn, the Courthouse and Catholic Church) and 31 buildings in Hill End Village including the Royal Hotel, the post office and a number of residences.

The NPWS has undertaken some adaptive re-use of these buildings already such as providing holiday accommodation in the Lighthouse buildings and homesteads such as East Kunderang.

I can advise Honourable Members that, as a result of the consultations I referred to earlier, a number of amendments to this provision in the Bill will be accepted by the Government.

The Bill will define a modified area as an area of land where the native vegetation cover has been substantially modified or removed by human activity, other than activities relating to bush fire management or wildfire, and which has been identified in a plan of management as not being capable of restoration. The type of areas this definition may encompass include grassed picnic areas and areas adjacent to scenic lookouts.

The Minister may also grant a **licence** under section 151B(3) to occupy and use land within a reserve and any existing building or structure on the land for any purpose, whether or not it is a purpose for which the land is reserved.

The Minister may only do so if:

- the land is a modified natural area; and
- the licence is granted for a term not exceeding 7 consecutive days.

I reiterate the fact that potential uses will be limited to those activities that have been identified in a plan of management, and must have regard to the area's natural or cultural values.

The intention of the amendments is not to impede public use and enjoyment of the reserve system, but rather to expand the range of services and facilities available in the park system.

Under new provisions outlined in proposed section 153AA of the Bill, the Minister for the Environment will also be able to grant access rights to owners of in-holding properties, subject to strict conservation considerations.

This will, for example, allow the Minister to close down existing access rights which damage the environment and grant instead access rights which limit environmental impacts. The Minister's power to properly administer existing legal interests on land taken into the national park estate will also be clarified.

The National Parks and Wildlife Advisory Council and other advisory committees

The Bill will restructure the National Parks and Wildlife Advisory Council. The membership of the council will largely be based on expertise in areas of relevance to the management of the national park estate and the carrying out of the Minister's and National Parks and Wildlife Service's other functions under the Act. This will include expertise in local government and rural and regional issues.

Major conservation groups will continue to be members of the Council. The Council will advise the Minister on strategic, state-wide issues.

The Bill also amends existing provisions in the Act relating to the establishment of advisory committees. Under the new proposals, advisory committees will be formed over geographic areas, to mirror current NPWS practice of amalgamating a number of specific reserve committees into regional committees. Provisions also allow for committees to be formed for specific issues.

The committees will provide advice to the Director General and the National Parks and Wildlife Service on reserves and their plans of management, and National Parks and Wildlife Service programs more generally within their area. Existing members of both the Council and the advisory committees will be retained for the term of their membership.

This is another area of the Bill where the Government will be agreeing to amendments during the Committee stage of the debate.

The Bill replaces the existing Aboriginal Cultural Heritage Interim Advisory Committee with the Aboriginal Cultural Heritage Advisory Committee. Membership will be drawn from Aboriginal elders groups, native title claimants registered on the Register established under the Commonwealth Native Title Act, and Aboriginal traditional owners registered on the Register established under the NSW Aboriginal Land Rights Act.

The Committee will advise the Minister and the Director General on the identification, assessment and management of Aboriginal cultural heritage. It will also include one representative nominated by the NSW Aboriginal Land Council.

Flora and Fauna Management

Management plans for protected native plants

Under the current legislative regime, there is no mechanism to ensure that commercial activities which may affect protected and threatened flora are undertaken in a manner that does not jeopardise the conservation of the species in question.

The Bill gives the Director General the ability to prepare management plans for any commercial activity or activities related to protected or threatened flora species, where they have the potential to adversely affect the conservation status of the species.

The amendments are necessary in order to:

- enable the ecologically sustainable management of native plants for a variety of purposes, such as the cut flower industry, the nursery industry, the bush tucker industry and bush regeneration or seed collection; and

- to create a more flexible licensing system in accordance with these management plans, including exemptions in appropriate cases, and provide for ongoing monitoring to establish the impact of harvesting on the sustainable management of native plants.

For threatened plants, the intention is to focus the industry on harvesting from plantation stock, as opposed to harvesting from plant species in the wild.

In addition, these amendments are required in order to support the development and administration of management plans for native flora, which are necessary to enable the continued export of native flora for commercial purposes under the Commonwealth's *Wildlife Protection (Regulation of Exports and Imports Act) 1982*. This is critical to the continued operation of the State cut flower export industry, which has a worth of more than $6 million.

Although the present Commonwealth regime of export controls will be replaced on 11 January 2002 by a new regime under the *Environment Protection and Biodiversity Conservation (Wildlife Protection) Act 2001*, the requirement for Statewide management plans to support the native flora export industry will remain.

Possession of native birds

The Bill repeals the existing section 108 of the Act, which enables a person to hold 19 or fewer legally acquired native birds without any licence or registration certificate. This is also known as the "19 bird rule".

As a result of these amendments, all individuals seeking to buy, sell, or hold in captivity a non-exempt native bird will need to acquire a licence.

This amendment is necessary in order to:

- enable the National Parks and Wildlife Service to more effectively meet its conservation responsibilities, by improving regulation and increasing monitoring of native bird species; and

- end the current practice of "laundering" illegally trapped or stolen birds from other jurisdictions through NSW. This practice is directly affecting the conservation status of threatened species such as the Major Mitchell or pink cockatoo.

The abolition of the 19 bird rule is supported by the Native Animal Keepers Consultative Committee, which includes representatives of bird keeper organisations, the pet trade, and conservation and animal welfare organisations.

Offences and penalties

Amendments will be made to raise the general penalty provided for in section 176 of the Act to 100 penalty units for individuals and 200 units for corporations. One penalty unit equals $110. The maximum penalty for breach of regulations will be raised to 50 units, plus a further penalty of 2 penalty units for each day the offence continues.

The Bill will make it an offence to breach a stop work order. Penalties will also be increased for failure to comply with interim protection orders so that they are the same as those for failing to comply with a stop work order.

The maximum penalty for breach of a stop work order will be 1,000 penalty units for an individual, with a further penalty of 100 penalty units for each day the offence continues, and 10,000 penalty units for a corporation with a further penalty of 1,000 penalty units for each day the offence continues.

Under section 99A, failure to comply with a direction to stop feeding protected fauna, or to stop an activity that is causing, or is likely to cause, distress to protected fauna, will attract a maximum penalty of 25 penalty units.

Under section 156A, the Bill will make it an offence to damage reserved lands or lands held under Part 11 of the Act. Such action may incur a penalty of 10,000 penalty units in the case of a corporation, or 1,000 penalty units or 6 months imprisonment, or both, in the case of an individual.

There will be a defence if the action was done: in accordance with a consent from the National Parks and Wildlife Service: in accordance with a development consent (in case of the Kosciuszko National Park Ski Resort area); according to a determination under Part 5 of the Environmental Planning and Assessment Act; or in emergency circumstances. In the case of items of cultural value on park, there will be an additional defence of reasonable knowledge.

These changes reflect community demands for relevant and adequate penalties for those individuals and corporations found to be damaging reserved areas. Recently two individuals were only fined a total of $1,100 for lopping a number of trees within Sydney Harbour National Park. This Bill will ensure those individuals and corporations found guilty of damaging reserved lands receive just punishment.

Provisions in this Bill will be in line with provisions in other Acts for similar environmental offences, including the *Protection of Environment Operations Act*, and will ensure that offences can be more easily prosecuted against corporate directors and other senior corporate officers.

Miscellaneous amendments

There are a number of other miscellaneous amendments including:

A more streamlined process for reserving land including the retention of current provisions which allow reserve gazettals to be tabled in Parliament.

Provisions allowing more flexible administration of existing interests (interests over land which are in place prior to addition to the reserve system), including telecommunications facilities and broadcasting services.

Provisions allowing the Director-General of National Parks and Wildlife Service the discretion to not release sensitive information in the public interest such as the location of rare fauna and flora such as the Wollemi Pine, and significant aboriginal objects and places. A consequential amendment has also been made to the Freedom of Information Act.

Transitional amendments

A number of transitional provisions have been included in the Bill. This includes a provision which aims to retain existing reservations and dedications decisions made prior to the Bill's commencement.

Conclusion

This Bill represents an opportunity to provide for a modern and relevant legislative framework that can deliver enhanced conservation outcomes.

The flexible management tools contained within this Bill will deliver a more transparent park management process that will be undertaken within a regional context.

This Bill also strengthens the Service's capacity to identify and promote the regional economic development opportunities that national parks offer regional and rural communities.

I commend this Bill to the House.

The Hon. JOHN RYAN [10.47 p.m.]: The Opposition does not oppose the bill. It is extensive legislation. Indeed, it is perhaps one of the most comprehensive reviews of the National Parks and Wildlife Act that has been conducted since the Act was introduced in 1974. Significant discussion will take place in Committee on the provisions of the bill. The honourable member for Southern Highlands in another place, the shadow Minister for the Environment, made extensive comments on the bill and by and large I do not propose to repeat many of her comments. However, I will outline a few in point form to highlight some of the Opposition's concerns. Additionally, I will raise some issues that have arisen since the bill was debated and passed in another place. One of the most important aspects of the bill is to insert into the National Parks and Wildlife Act a series of objects that were not originally there. I imagine it was not the habit in 1974 to insert objects of Acts. The Opposition does not disagree with the objects outlined so far, but there does not appear to be much reference in the objects of the Act to the fact that a principal purpose of national parks reserve land is for the enjoyment and recreation of people in New South Wales.

For example, one of the objects of the current Act is to foster public appreciation, understanding and enjoyment of nature and cultural heritage and their conservation. There is no doubt that national parks do that, but they also provide a venue for bushwalking, rock climbing, canyoning and sometimes bike riding, horse riding and four-wheel driving. That kind of access is appropriate on some land that has been reserved for conservation purposes. The Opposition is concerned that the bill does not recognise adequately activities that the public considers normal for national parks. That is not to say that such activities should override or conflict with important conservation purposes, which is another reason why national park land is reserved.

The legislation standardises the reservation of land. Land is classified in different ways and the bill attempts to ensure that this occurs in a reasonably standardised fashion. For example, under the National Parks and Wildlife Act some land is dedicated and other land is reserved. In future all land will be considered to be reserved. Another point of interest in this bill is the new arrangements for streamlining the procedures for drafting, discussing and promulgating plans of management for national park land. Opposition members in another place expressed some general concerns about this provision, which crossbench members will probably also raise in the House. The National Parks Association has expressed concern about the process by which plans of management will be developed and approved by the Minister. It is not clear why plans of management developed at a local level, which is where they should be developed, will not be considered by the advisory council and its advice conveyed to the Minister. The original Act gave the advisory council this power but the revised Act removes that power and that role for the council.

Many of our parks still do not have plans of management. This bill is full of feel-good objectives regarding plans of management but lacks any robust acknowledgement of National Parks and Wildlife Service management obligations regarding pests and weeds in reserves. We continue to express our general concerns about that lack of plans of management. I imagine that there will be some discussion of the provision that enables the Minister, at the request of the person or body responsible for preparing a plan of management, to make minor alterations to the plan without the need for public consultation. That provision is intended to be used only for minor alterations but there may still be some debate about that point. The shadow Minister for the Environment in another place indicated that the Opposition might be prepared to consider positively amendments that address this issue as those powers appear to be fairly broad. State recreation areas will now be known as State conservation areas. Opposition members in another place remarked that this may give the mistaken impression that these important recreation areas, which also tend to be areas of land reserved for conservation purposes, may be lost as a result of this new title.

The bill also mentions Aboriginal objects. The word "relic" as it appears in the principal Act will be replaced by the term "Aboriginal object". The bill refers to the preservation of objects of Aboriginal culture in the national park estate, but the Opposition discovered during our consultation process that the New South Wales Aboriginal Land Council had not been consulted about the bill. It made some important comments about various provisions in the legislation. The land council strongly objects to new section 72AA (5) (c) (ii) in schedule 1. It is concerned about that part of the bill and requests its removal as it implies that Aboriginal traditional practices may pose a threat to endangered species. The land council believes that that provision singles out Aboriginal people in an insulting manner. It draws attention to the fact that Aboriginal people are the true custodians of the land, which they successfully managed sustainably for more than 60,000 years. The land council points out that the most threatening impact on species in Australia was white settlement and advises strongly that the provision be omitted.

Another area of concern to the Aboriginal community is the fact that some penalties in the bill seem to suggest that damaging flora and fauna is more serious than damaging Aboriginal objects. New section 90 (1) establishes a maximum penalty of 50 penalty units for anyone who destroys, defaces, damages or desecrates an Aboriginal object or place. However, damaging protected flora or fauna carries a penalty of up to 100 units. The land council is concerned about that provision, and I understand that the Government may respond by introducing amendments to make those penalties more consistent.

The New South Wales Aboriginal Land Council is also concerned about new section 99A, which refers to the extensive powers of staff or officers of the National Parks and Wildlife Service to direct people to stop feeding protected fauna or to cease activities that might threaten or stress fauna. However, they do not have similar powers to stop people defacing, desecrating or damaging an Aboriginal object or place. For example, it might be appropriate for a national parks officer to instruct a person to leave an area of significance to Aboriginal people. The Government may need to return to this bill and amend it to address the concerns raised by the New South Wales Aboriginal Land Council. The Opposition thanks the land council for its contribution to this review. We were shocked to learn that the Government did not seek its advice prior to the shadow Minister raising these issues in another place.

The bill contains new provisions relating to the granting of leases, licences and easements, some of which are quite interesting. The Minister now has the power to grant an easement, right of way or licence over land reserved under the principal Act to enable access to land that is completely surrounded by reserve. One of the first submissions I made as a member of Parliament was on behalf of some people whose land was completely locked in by Moreton National Park as a result of a drafting accident and who relied on the annual grant of an easement to access their property. The then Minister objected to giving them more permanent access as he said it would be necessary to include that provision in an Act of Parliament. I imagine that that provision is designed to relieve such a problem.

Other aspects of the bill are likely to be more controversial. For example, concern has been expressed about the Minister being given the power to grant leases to enable the adaptive reuse of an existing building, structure, or any land within the national park estate that has been modified for various purposes. The bill provides for consultation, but only if the lease is to be of a period of longer than five years. It makes extensive changes to the powers, duties and functions of the National Parks and Wildlife Advisory Council. It also changes the membership of the council so that it will comprise 17 members appointed by the Minister, each having specified qualifications.

The shadow Minister in another place raised the concern that the membership of the committee was deficient in its representation of major stakeholder groups, rural land-holders and people with recreational interests. The shadow Minister indicated that the Opposition would consider moving an amendment to require the advisory council to provide for appropriate representation of those groups. I understand that there has been further negotiation on that aspect. It may well be that the Government will address the issue in amendments it has informed the Opposition it proposes to include in the future.

The bill makes various changes to offences, penalties and proceedings. I note with interest that it establishes new offences, and that it includes provisions for sentences of six months or less. Given that I chaired a committee that made reference to the fact that the Opposition may at some stage recommend to a future government that sentences of six months custody or less be abolished, it is interesting that legislation has been introduced that contains such provisions. If we are serious about sending offenders to gaol, we should send them to gaol for a sufficiently substantial period to enable them to be reformed while they are in custody. Sentences of six months custody or less are insufficient to achieve that objective, and therefore it would be better to sentence such offenders to terms of community service.

Given the amount of work that needs to be done in the national park estate, I am sure that there would be more than adequate community service work for people who are found to be defacing or destroying national parks property or items of value within the estate. That would ensure that they have an understanding of natural beauty and conservation values of the national park estate. The bill creates a couple of new offences and provides for new powers for national parks officers. It enables officers to give a direction to a person to stop feeding protected fauna, or to stop an activity that is causing, or is likely to cause, distress to protected fauna. It also creates an offence of removing water, or removing or damaging vegetation, rock, soil and the like, or damaging objects or places of cultural value on land reserved or acquired under the National Parks and Wildlife Act.

The bill provides for amendments to the Freedom of Information Act to enable the location of certain objects, whether they be Aboriginal objects or other items of important cultural or ecological value, to remain secret, when it is in the public interest for the location of those items not to be revealed. I understand that that provision was sparked by the fact that an overseas film crew was able, through applications under the Freedom of Information Act, to determine the location of the Wollemi pines site and to film that site. Concern was expressed that the continued preservation of such items may be jeopardised if the information is disclosed. The Opposition has no objection to the amendment to the Freedom of Information Act because it believes it is a reasonably wise provision. I understand that members on the crossbenches intend to move up to 150 amendments in Committee, none of which have yet been sighted in the Chamber, certainly not by the Opposition.

The Opposition's concern is that we are limited in our ability to respond to extensive amendments because, although we have consulted extensively on the principal bill, it is difficult to consult with all the various stakeholders we would want to consult with. Next week, the lower House is not sitting and the honourable member for Southern Highlands, the shadow Minister for the Environment, will be engaged in a significant number of school events that are traditionally held at this time of year. It will therefore be difficult for her, while she is carrying out those duties in her electorate, to consult on the issues raised by the amendments. If extensive amendments are to be moved, we ask that members on the crossbenches make them known as soon as possible. With those remarks the Opposition commends the bill to the House.

The Hon. HELEN SHAM-HO [11.06 p.m.]: I support the National Parks and Wildlife Amendment Bill. The bill is timely, as the National Parks and Wildlife Act 1974 has been in existence for more than 25 years and it therefore needs to be made more relevant to current concerns. Amongst other matters, the bill will delete from the Act the old-fashioned term "Aboriginal relic" and will insert instead the more appropriate term "Aboriginal object". I believe it is not an extremely controversial bill. I did not intend to speak to it, but the New South Wales Aboriginal Land Council has expressed concerns about some aspects of it and I would like to raise some of those concerns.

The Aboriginal Land Council complained to me that it feels it did not have sufficient time to properly consider the bill. I am aware that last Thursday a meeting was held between the land council and representatives of the National Parks and Wildlife Service. The land council outlined its concerns at the meeting, but it only received a response from the Minister late yesterday afternoon, that is, a week later and only a day before the bill was to be debated. Today I was advised by the Minister's office that the land council received the bill with plenty of time for consultation. That may be the case. However, I should like to quote from a fax I received this morning from the media officer of the Aboriginal Land Council. It reads in part:

> Apart from the concerns outlined in our response, our Chairman is also annoyed at the amount of time we had to consider the amendments. It is an ongoing problem that we are not given adequate time to consider an appropriate response to legislation changes.

I hope that the Government will rectify this situation. It seems that the Aboriginal community always either misses out on the consultation process or is not given sufficient time to consider amendments. The Aboriginal Land Council raised with me its concern about the Aboriginal Cultural Heritage Advisory Committee, which will be established under the bill. The bill makes provision under division 3, clause 28, for the committee to advise the Minister and the director-general on any matter relating to the identification, assessment and management of Aboriginal cultural heritage. The land council proposes that the advisory committee should have a strategic role in the plans of management and the heritage impact permit process.

I am aware that the Government, or the Minister, supports the concept of the advisory committee having such a role as I have a copy of a letter dated 5 December which was written by the Minister to Rod Towney, Chair of the New South Wales Aboriginal Land Council. Apparently, the type of role envisaged by the Government is for the committee to develop policies, guidelines and processes and not to provide advice on every plan of management and heritage impact permit. I do not understand why the Government has not amended the bill to that effect. If it is not the intention of the Government to amend the bill in that way, I will move an amendment to that effect in Committee.

The land council is also concerned about the lighter penalties in new section 90, which relate to the destruction, defacing or damaging of Aboriginal objects and places. It seems as though a lower value is placed on Aboriginal cultural heritage than on protected fauna, since the penalties for the destruction of Aboriginal cultural heritage are 50 penalty units, imprisonment for six months, or both, whereas the penalty in new section 98 for harming protected fauna is 100 penalty units. The land council considers that this difference in penalties "is insulting to Aboriginal people, as ancestral remains and cultural objects have an enormous spiritual and cultural significance to Aboriginal people". I agree that the protection of Aboriginal cultural heritage must be taken more seriously and given at least the same respect as the protection of fauna.

I understand that the amendment to new section 90 will overhaul the whole offence, making it a strict liability offence and, therefore, a lot tougher. Currently under this section it is an offence only if a person has intent and knowingly destroys, defaces or damages Aboriginal cultural heritage. I have been advised by the Government's adviser that that section, which has been quite unworkable, has resulted in few successful prosecutions. I hope that this change will make it more effective in protecting Aboriginal heritage in New South Wales. I have also been advised that, as section 90 is now a strict liability offence, it will be unnecessary for the penalty to be higher because the number of prosecutions is likely to increase.

While I understand that position, I think the Government should clarify why a significant inconsistency exists between the penalties for section 90 and those for section 98. I would like the Government to commit to a regular review of penalties that exist for offences under the Act so that they appropriately fit the offence. Another concern held by the land council relates to the objectives and contents of plans of management proposed in new section 72AA (5) (c) (ii). That provision allows for studies to be conducted concerning any possible threat to threatened species of animals or plants caused by the exercise of Aboriginal rights to hunt, fish or gather traditional foods. While I acknowledge that the land council finds that insulting, I believe that it could be beneficial for national parks if such studies were undertaken.

I am also aware that the Minister stated that any studies that are undertaken will be in conjunction with the relevant Aboriginal board. The land council has other minor concerns, but after I read through the Minister's second reading speech I established that some of those concerns have already been answered. So I will not address any additional issues tonight. I hope that the Government will address the concerns of Aboriginal communities. I commend the bill to the House.

The Hon. MALCOLM JONES [11.14 p.m.]: I speak in debate on the National Parks and Wildlife Amendment Bill. When I arrived in Australia I was spellbound by its national parks. To me they were the

Garden of Eden. The variety and diversity of those areas amazed me. Twenty-seven years later, I am still in awe of those places. However, much has changed in the attitude of people who administer these parks—and I will not go so far as to say that they look after them. In the 1970s, "Parks for the people" was the catchcry. Today that has changed to "Parks against the people". When the latest round of wilderness is declared, 43 per cent of the national park estate will be off limits to all but 7 per cent of national parks visitors, but everyone will have to pay the annual budget of $260 million. And all this in the name of conservation—such a wonderful motherhood term.

Who would ever criticise such an arguable topic? I can, because conservation, in New South Wales terms, more often than not simply means neglect or locking out the majority for the sake of the minority. When it clearly does not mean neglect it has the full support of my colleagues and me. We are prepared to work at cleaning up and maintaining national parks as no other volunteer organisations can. We have had for many years now an offer on the table to renew our real conservation and repair work. The current National Parks and Wildlife Service regime made it abundantly clear that the services that had continuously been rendered for many years up until the mid-1990s by the recreational community were no longer appreciated.

Parks were cleared up regularly, which led to friendships and co-operation, but this was not welcome to the extreme green philosophy and the pantheism that prevailed amongst National Parks and Wildlife Service personnel. I trust that the current memorandum of understanding between the recreational four-wheel drive clubs of Australia and the National Parks and Wildlife Service can be made to be beneficial to the national park estate and will not be sabotaged by those in the National Parks and Wildlife Service with covert agendas. I believe that the current senior management team is trying to do the right thing in difficult circumstances.

In recent times the National Parks and Wildlife Service has had a series of management issues which are a cause of great alarm to the community. They include the Thredbo disaster, the Ku-ring-gai backburning tragedy, the Perisher sewage treatment plant, the Kite inquiry, and the aerial culling of horses in Guy Fawkes River National Park. Any criticism is swiftly and effectively dealt with by a slick spin team. During the recent inquiry into the Rural Fire Service, in a dissenting report I criticised National Parks and Wildlife Service fire practices. Before the report was printed, less than 10 days later, three firefighters were tragically killed at Mount Ku-ring-gai during a routine hazard reduction burn. As the issue is before the courts at the moment I will not go into more detail.

In the opinion of many people, the National Parks and Wildlife Service needs a lot of attitudinal reform. I do not think that this bill will achieve such reform. The bill is to put into legislation the revised modus operandi of the National Parks and Wildlife Service. When I first read the bill I was alarmed that the principles of management were being introduced for plans of management to control various categories of reserved land, and such principles do not include the word "recreation". I am assured now by the Minister's staff that this is not the intention of the bill, and that my amendments to include "recreation" into the principles will be accepted.

The advisory council and the advisory committees similarly had no mention of recreationalists in their descriptions. Once again, I was concerned. However, I was assured that that was not the intent of the bill and that amendments would be accepted by the Government. Under this Act the Minister for the Environment has powers transferred to him to approve licences for people to have access across public land to reach their properties. That previously was the domain of the Minister for Agriculture. In my opinion, that is wrong. If a person has a property which is surrounded by a neighbour's property, the landowner or leaseholder has a common law right to cross the neighbour's property and access a public road. Not so if the neighbour happens to be the Government.

This is a classic case of the State verses the rights of the individual, particularly if the State authority happens to be the National Parks and Wildlife Service, which is actively out-purchasing—and in fact competing to purchase—property. I am not claiming this to be the case, but honourable members should consider the value of a property for sale with access on the open market. Remember that the National Parks and Wildlife Service is competing for this property. Now consider the value of the same property without access, where access is denied by the Minister and the only proposed purchaser is the National Parks and Wildlife Service. I will introduce an amendment to address this issue in Committee.

The bill similarly lacks consideration for local communities who are frequently affected by the actions of the National Parks and Wildlife Service. Considerations must be made for local communities. The downsizing of the centralised advisory council will help address this issue, and I trust that a number of small amendments will help regional communities. The bill makes provision for Aboriginal culture to be recognised

and preserved, and that is a good thing. However, the bill does not, but should, make similar provision for preservation of European historic sites. I also wish to include the words "and tracts of land", as a number of historic trails have significant cultural value.

Plans of management should have a reference in the Act to revoke and/or review plans of management which do not work or are not capable of working. Under the Act every national park has to have a plan of management. However, as I have said in this place on numerous occasions, many fail to conform to anything like a reasonable time frame. Nature reserves and their formation are a real problem in terms of legitimacy. There is no public consultation process, and horse riders in particular are disadvantaged, as the rules for nature reserves do not allow horse riding. As there is no consultation process, events just happen—such as the visit of the director-general of the National Parks and Wildlife Service to the nature reserve at Karuah, north of Newcastle.

The Hon. Ian Cohen: There is a big difference between nature reserves and national parks.

The Hon. MALCOLM JONES: I am talking about nature reserves now. The director-general saw for himself and admitted that he could detect "no adverse impact from horse riding in these areas". He also admitted that mistakes had been made and acknowledged that past horse riding activities were wrongly disregarded. The bill includes phrases such as "culturally appropriate" in proposed section 72AA (1) (n). I would appreciate advice as to what that little gem of political correctness is supposed to mean.

The Hon. Jan Burnswoods: You just talked about culturally important trails.

The Hon. MALCOLM JONES: I want to know what "culturally appropriate" means.

The Hon. Jan Burnswoods: You can say it but you do not want anyone else to say it.

The Hon. MALCOLM JONES: "Culturally important" has a specific appropriation to the community. "Culturally appropriate" is a value judgment.

The Hon. Jan Burnswoods: Why is it all right for you to use the words but not others?

The Hon. MALCOLM JONES: Perhaps the Hon. Jan Burnswoods could talk to the Minister about these issues and give answers to the member who is speaking at the moment. Similarly I would appreciate advice as to what is meant by "threatening processes" in proposed section 72AA (1) (q). The bill has the potential to impact on activities in State forests. I welcome formal advice as to how activities such as car rallies and horse riding, which previously have always been allowed in State forests, can be affected. As I have a number of amendments I will reserve further comments for the Committee stage.

The Hon. RICHARD JONES [11.22 p.m.]: This bill amends the last significant unmodified statute in the environment portfolio, the National Parks and Wildlife Act 1974. As the Minister for the Environment admitted during his second reading speech in the other place, the National Parks and Wildlife Act 1974 is now more than 25 years old and has only ever been amended in an ad hoc fashion. As a result, the Act contains redundant and outdated provisions, as well as some significant omissions. Unfortunately, this bill continues that tradition. Not only does it fail to grasp the opportunity for much needed key reforms, it introduces a whole new set of very significant problems.

For example, it contains a weak set of objects that do not give primacy of place to nature conservation and reduces the quality of governance by transferring the role of the National Parks and Wildlife Advisory Council, in advising the Minister on plans of management, to the regional advisory committees, which draft the plans. The bill reinforces access to landlocked sites by allowing private property owners to gain vehicle access across national parks when no or limited access currently exists, and it dilutes management planning by allowing spot rezoning of plans of management for minor or small, but inappropriate, development without public consultation. It fails to specify appropriate uses for lands or establish adequate transparency and public accountability for leases and licensing for commercial development and use.

The bill allows buildings and structures in parks to be used for any purpose, continues to allow private residences to be established within parks and allows other Ministers to obstruct the declaration of wild rivers within parks and reserves. It also fails to progress agreements between Aboriginal and environment groups and eliminates wilderness protection as a primary activity of the National Parks and Wildlife Service. As such, the

bill is a major assault on the protection of the national parks system. If passed in its current form, the bill will weaken the accountability of the National Parks and Wildlife Service, undermine the National Parks and Wildlife Advisory Council and lead to unprecedented privatisation and commercialisation of national parks and a significant decline in the protection of national parks and other reserves.

It will also ensure that New South Wales loses its premier conservation reputation. This is completely unwarranted and unacceptable. After all, New South Wales is the home of the world's first declared national park, the Royal National Park in the south of Sydney. Our State has been at the forefront of nature conservation in this country since that park was established in 1879. For example, Crown lands consolidation legislation was introduced in this State in 1913 to allow for Crown reserves to be created. In 1927 legislative protection was afforded to wild flowers and native plants in New South Wales and 1948 saw similar protection provided to fauna. Admittedly, this early legislation was focused on those plants and animals considered cute and cuddly or pleasing to the eye, and the first Crown reserve was established for lawns and gardens and recreational pursuits, not for nature conservation. However, thankfully we did not stop there.

As greater scientific research highlighting the fragile nature of the environment came to light, more and more elements of the environment were recognised as being worthy of protection. The introduction of the National Parks and Wildlife Act in 1967 enabled those elements to be protected in the national parks, State parks and nature reserves we know today. The National Parks and Wildlife Act also established the National Parks and Wildlife Service to manage those parks and reserves and provided a much needed conceptual jump in environmental protection—from protecting isolated parts of the environment to whole environments and ecosystems. The argument for protecting the environment for future generations became apparent, with a reference to parts of the State being preserved for all time.

This concept of preserving the environment for future generations, which we now call intergenerational equity, is an important principle of contemporary endangered species legislation. These developments were followed by the 1995 New South Wales Government signing of the National Strategy for the Conservation of Australia's Biological Diversity, which committed the Government to the establishment of a comprehensive, adequate and representative network of terrestrial and marine protected areas. The New South Wales Draft Biodiversity Strategy, which was developed as a result, identifies performance targets for establishing a comprehensive, adequate and representative reserve system for forests by 2000 and for all other terrestrial and marine ecosystems by 2010.

That reserve system is designed to safeguard endangered and vulnerable species and communities and to be managed to protect actual values. That inspiring list of comprehensive advancements in environmental protection in this State is effectively being put at risk by this bill. While I cannot believe that this so-called green Government is prepared to see us return to the days when the natural environment was protected not for its own sake but for human enjoyment and recreation, that appears to be exactly the type of use this Government is contemplating for the National Parks and Wildlife Service estate. It is time that we are all reminded of the actual purpose of a national park.

National parks are relatively large areas which are set aside for their predominantly unspoiled natural landscape and flora and fauna. They are permanently declared and protected from interference, other than essential management, so that their natural state is preserved. We are talking about only 6 per cent of the entire State.

In contrast, nature reserves are areas of special scientific interest, containing wildlife or natural features. Management practices aim at maximising the value of the area for scientific investigation and educational purposes. Public access is generally limited. Historic sites are areas of national importance that are preserved, and include buildings, objects, monuments or landscapes. Aboriginal areas are places of significance to Aboriginal people or sites containing relics of Aboriginal culture. These sites are preserved for their scientific and cultural value, and public access to them is generally limited. State recreation areas are permanently reserved larger regional parks for outdoor recreation.

The Hon. Malcolm Jones: No, they're not.

The Hon. RICHARD JONES: You should read the Act. These areas are managed to maximise their recreation potential while preserving and protecting their natural features. Regional parks are areas that have been substantially modified since European occupation and offer open space and recreation opportunities for major regional population centres. These areas are managed to maximise their recreation potential, while

preserving and protecting their natural features. State game reserves, which still exist, are lands set aside primarily for propagating game species. Shooters holding game licences may kill designated species of protected fauna during proclaimed seasons. Karst conservation reserves are areas managed to protect significant surface and underground landform features.

It is important to remember that the National Parks and Wildlife Service has eight different categories of protected areas, and each has a different purpose or design. We should not attempt to use one category of protected area for the purpose of another. It is also important to remember that national parks are set aside for their varied and unspoiled natural landscape and flora and fauna, not for minor or small, but inappropriate, development, buildings for any purpose, or the adaptive use of buildings.

We must also recognise that the size of the land management task of the National Parks and Wildlife Service is increasing, as is its complexity. Not only has the National Parks and Wildlife Service estate expanded with each of the comprehensive advancements in environmental protection that I have referred to, but much of the new estate reserved as protected areas has had a long history of disturbance and modification. Conflict about plans of management is also increasing, primarily due to disagreements over what is considered by different sections of the community to be appropriate recreational activities within national parks and the need to restrict or modify detrimental historical use practices.

There is no doubt that the invasion of protected areas by weeds and feral animals and uncontrolled access by people loving the area to death are all contributing to ecosystem decline and disruption within our national parks. There is also no doubt that the number of people expected to visit our national parks will only increase. A 12-month study between 1991 and 1992 revealed approximately 22 million visits to protected areas in New South Wales each year, and visitor use is forecast to rise to between 27 million and 32 million visitors per annum by 2005.

The problem with the National Parks and Wildlife Act is not only that it is more than 25 years old but also that it concentrates on process and regulation rather than on providing guidance on the role and functions of the protected area categories. While biodiversity is, for example, central to the modern day idea of protected areas, it is not mentioned in the Act. Nor is there mention of the principles used to develop the comprehensive, adequate and representative reserve system. The Act, as it currently stands, does not provide any clear objectives for most reserve categories. Whilst protected areas in New South Wales comprise some of the most important and special areas of the State, such as the Blue Mountains, Sydney Harbour and Kosciuszko and Mutawintji national parks, many protected area categories have potentially conflicting objectives.

However, if effective definitions and management objectives were introduced for each protected area category, we could ensure not only that areas are reserved for the appropriate purpose but also that the purpose is clearly understood by the community. Therefore, provisions need to be introduced that advance the protection and management of our national parks, and strengthen, not weaken, the oversight and accountability of the National Parks and Wildlife Service. We need provisions that strengthen the objects of the Act, the role and functions of the National Parks and Wildlife Service, and the management principles of each of the reserve types, such as national parks and nature reserves. We need provisions that upgrade governance within the National Parks and Wildlife Service by replacing the advisory council with an independent board, such as that of the Environment Protection Authority, and making provisions that do not forget the role of the National Parks and Wildlife Service in wilderness.

My colleagues from the Greens and the Australian Democrats and I will therefore move amendments in Committee that do exactly that. I urge all honourable members to support those amendments. After all, national parks are a priceless environmental and cultural institution in New South Wales. Their value lies in their contribution to our lives and to a natural world that we are only beginning to understand. If we compromise the potential for national parks to serve their purpose, the opportunity will be lost forever.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [11.34 p.m.]: I agree with my colleague the Hon. Richard Jones that systematic changes to the Act were needed, but this bill is a very disappointing attempt. Environment groups that I have spoken to are disappointed with it. The number of amendments needed to repair the bill is great, and the question is whether it is worth saving. Obviously that will depend on the Government's attitude to the amendments. The peak environment groups are concerned that the bill could lead to a significant decline in the protection of national parks and reserves, with the consequent loss of our reputation as the premier conservation State.

The bill fails to grasp the opportunity for key reforms, and there are significant problems in the areas covered by it. First, the bill reduces the quality of governance by withdrawing roles and powers from the

advisory council. It would be preferable to upgrade governance by establishing a board modelled on the Environment Protection Authority [EPA]. Second, it has a weak set of objectives that do not give prime consideration to nature conservation. Third, it dilutes management planning by allowing spot zoning with no public consultation, it reinforces access to landlocked sites, it fails to specify appropriate uses for lands, and it localises planning processes where parochial views dominate. It may well be that the reuse of buildings will be the Trojan horse.

Fourth, the bill fails to make leasing and licensing fully accountable and it promotes the adaptive use of buildings in a manner that does not respect environmental values. Fifth, it grants vetos to various Ministers over various conservation matters, which will diminish environmental outcomes and accountability for key decisions. Sixth, it does not progress agreements between Aboriginal and environment groups. Finally, it eliminates wilderness protection as a primary activity of the National Parks and Wildlife Service, thereby sending the strong message that a significant agenda item for the Government is to be downgraded.

The peak groups have commented that the bill is a major assault on the protection of the national parks system. It weakens the accountability of the National Parks and Wildlife Service and will lead to unprecedented privatisation and commercialisation of national parks and other reserves. A number of opportunities to improve the bill were missed. Improved governance is needed, primarily through the establishment of a strong and independent National Parks and Wildlife Service board, improved National Parks and Wildlife Act objects, and a requirement for public exhibition of all changes to reserve plans of management.

There is a need for a new advisory council and a new board. The bill seriously undermines the effectiveness of the National Parks and Wildlife Advisory Council by, first, removing its specific role in reviewing draft plans of management; second, defining the functions of the council in vague and general terms; and, third, allowing the Minister to appoint a person to the council instead of a nominee, if the nominating body fails to make a nomination or to make a nomination in time. Greater powers of review and oversight of the National Parks and Wildlife Service and the Minister's powers and activities under the Act are required. An independent board, modelled on the EPA board, is needed to instruct the director-general and directly advise the Minister.

The board will improve accountability and have a direct role in a number of areas, including reviewing draft plans of management and public submissions, regulating and advising on leasing and licensing and other agreements, initiating legal action, pursuing greater off-reserve conservation activities, and overseeing a review of performance and compliance. The bill provides for regional advisory committees. These committees emphasise local priorities and concerns at the expense of statewide and scientific conservation priorities and concerns. Plans of management are needed, but the bill circumvents public exhibition and submission procedures for reserve plans of management by creating a new category of "minor amendment" to a plan of management, which would avoid the need for public exhibition. "Minor amendment" is not defined, and controversy will undoubtedly result from this provision.

The bill adds objects to the Act that are general, without a hierarchy, and not binding, They do not necessarily restrict the use of the national parks system as directly stated objects would. The new leasing and licensing provisions of the bill allow private, exclusive, commercial and unrestrained use of the national parks system, such as adaptive re-use leases, modified land licences, private inholding access, and an independent compliance regulator.

The concurrence powers are another area of very significant concern. Restrictions and deadlock provisions are required for the extensive concurrence powers that various Ministers hold over functions under the National Parks and Wildlife Act. There needs to be reservation establishment. Deadlock provisions need to be introduced into the concurrence powers that are held by Ministers who are preventing reserve establishment, if agreement cannot be achieved. In terms of mining objection accountability, the Minister for Mineral Resources needs to provide written advice justifying objections to reservations. Proposed State conservation areas can be converted to national parks or nature reserves by gazettal. However, the powers of the Minister for Mineral Resources need to be constrained, the reasons for objection need to be publicly released, and a sunset clause needs to be inserted.

The Minister for Fisheries is given a new concurrent role for reserve plans of management that cover the intertidal zone. That role should not allow the Minister to interfere in the management of the national parks system outside the intertidal zone, such as requiring continued vehicle access to beaches. The Minister for Forestry is given new concurrence powers for reserve establishment over Crown lands and for voluntarily

conservation agreement over Crown lands and Crown leasehold lands. These powers need to be removed. The bill fails to take this opportunity to implement key Government policies on wilderness and wild rivers. In 1999 the Carr Government agreed to strengthen the Wilderness Act to prevent any variation of a wilderness boundary without an Act of Parliament. Comprehensive wild and scenic rivers legislation was also promised. This bill in fact weakens the existing provisions in the National Parks and Wildlife Act by adding a concurrence role for the Minister for Land and Water Conservation, who administers the Water Management Act.

The agreed Aboriginal ownership changes have not been advanced by the bill but they could have been. The bill also weakens the Freedom of Information Act because it goes too far in seeking exemptions. Of course, that is anathema to the Australian Democrats, who believe that open government is definitely the best way to assure accountability in New South Wales. The management principles for various types of reserved lands forming the national parks system need to the restated. For some reserve types, a hierarchy should be clearly stated and established. This bill has a large number of flaws. I will move amendments particularly related to governance and concurrence. Because the hour is very late I will speak to those matters at the Committee stage.

The Hon. IAN COHEN [11.42 p.m.]: It is with some disappointment that I speak to the National Parks and Wildlife Amendment Bill, which amends the Wildlife Act 1974. It is very unfortunate that the Government has failed to grasp this opportunity to reform that Act. I hold grave concerns about this bill, and I seriously considered opposing it outright. I have received a great number of expressions of concern from people in the conservation movement. At this stage in this State's history there is a great deal of disappointment in this Government.

The Hon. Duncan Gay: We might join you in opposing it, although for very different reasons.

The Hon. IAN COHEN: As the Deputy Leader of the Opposition suggests, he might oppose it for different reasons. Certainly the Government is in need of a shake-up in relation to this legislation. The Greens believe that this bill represents capitulation by the Government to people who want open slather land use in our precious national parks. The Deputy Leader of the Opposition may see that differently, but there are certainly provisions of this bill with which the Greens are extremely concerned. Governments are supposed to govern in the public interest and not for particular interests. This bill reflects a failure to understand the central purpose for which national parks were established. It shows that the Government is deserting the rationale underlying the creation of national parks. The main problem with the bill is that it is drafted to satisfy the whims of the tourism industry, which is interested in marketing nature as a gimmicky attraction. The Greens reject that approach.

National parks do not exist for the purpose of providing a pretty backdrop for luxury accommodation, and they certainly do not exist to provide a goldmine of expensive real estate for those who have an interest in ski resort development. National parks exist to provide a haven for the non-human world and to create a safe and secure place where the natural environment is largely undisturbed and the presence of people is carefully managed to avoid intrusion on natural values. I am sure that many honourable members, when visiting national parks, have gone into areas that gave them a feeling of what Australia was like before European settlement. Those areas are often in pristine condition, and, if you are lucky, you might come across a magnificent cathedral created by nature. Those areas are an inspiration to many people. The bill threatens the whole raison d'être for national parks. If national parks are leased, licensed or handed over for private gain, as envisaged in the bill, the limits of acceptable land use become almost impossible to define. It would be disastrous if the management were handed over from the National Parks and Wildlife Service to the marketing departments of hotel chains and resorts.

The Hon. Duncan Gay: I would like to see the weeds and feral animals removed.

The Hon. IAN COHEN: So would I.

The Hon. Duncan Gay: Hear, hear! We have common ground.

The Hon. IAN COHEN: Certainly I think we have reached common ground but we must think about how to deal with that. Other people would like to see weeds removed.

The Hon. Ian Macdonald: We have trouble with horses.

The Hon. IAN COHEN: Horses are a good example, as the Hon. Ian Macdonald said. They do take weeds into national park areas and there is an issue in the sense that that type of land use is incompatible with

national parks. The Hon. Malcolm Jones has been complaining about horses being kept out of nature reserves. Nature reserves have a higher designation of protection than national parks, owing to their scientific and ecological importance. The human input and recreational value of national parks are more apparent, and that has placed national parks further down the scale of protection than nature reserves, which have attracted more protection.

The Hon. Duncan Gay: I would argue with you, except that it is very late. Have a look at some of the reserves that have been made nature reserves. It was not done because of their natural qualities.

The Hon. IAN COHEN: I am talking here about the designation of nature reserves under the Act, unless it changes. Perhaps it will now change to suit the perspective of the Deputy Leader of the Opposition. The fact is that the National Parks and Wildlife Service, not the marketing departments of hotel chains and resort developers, should be in control of reserves. The proper role of a public authority with a brief to manage in the public interest is to resist commercial proposals. However, with tight restrictions on the budget of the National Parks and Wildlife Service the bill gives little direction to assist senior National Parks and Wildlife Service managers who wish to resist commercialisation. With added responsibility for managing huge areas of land that now comprise approximately 7 per cent of the State, the temptation for the National Parks and Wildlife Service to regard parks as a commercial asset will be almost irresistible. The bill does not rule out sponsorship arrangements such as naming rights.

The bill needs to be seen in the context of other commercial activities by government agencies which rely on private ownership to provide essential public services. The services should be provided by properly resourced public sector agencies that are increasingly being outsourced. One only has to consider the recent proposal for McDonald's Family Restaurants to sponsor public schools. I would regard that as a somewhat unholy relationship, especially between that particular fast-food outlet and schools. I would consider that an abomination, a terrible thing to happen in the public schools system. Similarly, there has been very poor representation of national park environments. For people who work on the ground, particularly the rangers, this bill provides no comfort. For them, more development will inevitably lead to more weeds, more noise, more intrusions, more road kills and less quiet.

The Hon. Duncan Gay: At least McDonald's is not an illegal drug.

The Hon. Ian Macdonald: Duncan, please.

The Hon. Duncan Gay: It was the word "abomination".

The Hon. IAN COHEN: I cannot see the word "abomination" in my notes.

The Hon. Duncan Gay: You used it in connection with a reference to McDonald's.

The Hon. IAN COHEN: I thank the Deputy Leader of the Opposition for pointing that out to me. I certainly stand by what I have said. As I was saying, more development will lead to more noise, more intrusions, more road kill, less quiet, less beauty and less clean water. The main aspect of the bill that concerns the Greens is the expansion of opportunities for leasing and licensing.

The Hon. Duncan Gay: It is the Hon. Ian Macdonald's fault. He should have adjourned the House hours ago.

The Hon. IAN COHEN: It is up to the Government to set the agenda for this House. I will speak on this bill at any time of the day. I do not do a three-hour closure like the Government expects to be able to do in relation to gaming machines. If that is what the Government wishes, I will go right through.

The Hon. Ian Macdonald: That's what I like—a dedicated member.

The Hon. IAN COHEN: Absolutely, especially on national parks. I love national parks; they are perhaps the only thing that enables me to work in this environment. The magnificent furniture in this Chamber would pale in comparison to the trees from which it was made. In national parks we still have a few of those trees.

The Hon. Jan Burnswoods: Remember that this Chamber was actually a prefabricated iron building imported in 1851.

The Hon. IAN COHEN: It may well have been. I look at the magnificence of the timber and I imagine the trees it came from.

The DEPUTY-PRESIDENT (The Hon. Janelle Saffin): Order! I ask the Hon. Ian Cohen to speak to the leave of the bill.

The Hon. IAN COHEN: The bill allows existing buildings to be adapted and used for any purpose specified in the plan of management. The Government claims that the bill is necessary to overcome uncertainty in the law, which has arisen from two recent court decisions. However, it is not true that the decisions in *Packham v Minsiter for the Environment* and *Woollahra Council v Minister for the Environment* have produced uncertainty. The effect of those decisions on the Act was clear. The power to issue licences and leases was restricted to activities carried out for the purpose of preserving, managing and maintaining the natural attributes of a national park, including visitor facilities. A lease for a postgraduate school of business administration and a licence for access to landlocked private land were held to be inconsistent with the purposes for which national parks are established.

Justice Kirby held in the Packham case that the Minister did not have the power to issue a licence for a private driveway. The power could only be exercised to promote, or be ancillary to, the use and enjoyment of the national park as a public park. These cases resulted in a sensible interpretation of the Act that allowed reasonable use of national parks while imposing necessary restrictions on uses that are incompatible with national parks. The restrictions are now being swept away. In making decisions, the Minister need only have regard to conservation under proposed section 151B (6). This section could be interpreted so that the Minister is able to approve a lease, knowing that it will have a detrimental effect on conservation. The leasing and licensing system contained in the bill will be wide open to the type of privatisation of parkland we saw recently in the case of the quarantine station. Leases on buildings create the potential for hotels and deny public access. The quarantine station is in a beautiful area. I hope honourable members have been to have a look at the station.

The Hon. Duncan Gay: Some of them have trouble getting out.

The Hon. IAN COHEN: I had trouble getting in. I remember trying to get in at one stage to listen to a lecture being given to all Australian environment Ministers by Mr Amery Lovenz, a visiting expert in alternative power generation.

The Hon. Greg Pearce: Did they think you were a Minister for the Environment?

The Hon. IAN COHEN: No. This was before I was elected to Parliament. I entered the quarantine station via the bush, which is a habit of old. Rangers were chasing me all over the place. Eventually I was caught by the police and taken to the front gate. At that very time the then Federal Minister for the Environment, Graham Richardson, was driving out of the quarantine station. His presence had an overwhelming effect on me, and I just had to stand in front of his car. He stopped and took me into the quarantine station via the front door, which was very generous of him. I was able to sit and listen to the dissertation by Amery Lovenz on alternative power generation. For me, the quarantine station has a bit of history. It is a wonderful area, with significant old buildings. Unfortunately, one building was burnt down.

The Hon. Duncan Gay: I am disappointed in Richo; I thought he was tougher than that.

The Hon. Ian Macdonald: Whatever it takes!

The Hon. IAN COHEN: He decided at the time that he would not run over this younger than thou greenie, and I certainly appreciated that. There was method in his madness. I think he decided to invite the greenies in to stop them gatecrashing his party. During debate on a matter of public importance in the other place on 23 October 2001 David Barr—

The Hon. Greg Pearce: Who is he?

The Hon. IAN COHEN: He is the Independent member for Manly. He said:

> The future of North Head Quarantine Station is a matter of public importance. The site is of international importance. At 3 am last Saturday week the third-class dormitory building, building P22, one of the oldest and most intact buildings on the site, was destroyed by fire … This tragic incident has shaken everyone who was involved with the quarantine station. It is symptomatic of the problems of neglect of and disregard for the quarantine station.

The Hon. Jan Burnswoods: David Barr thinks the sewage treatment plant should be extended into the national park.

The Hon. IAN COHEN: The Hon. Jan Burnswoods has added an interesting interaction to the debate. I appreciate that information and I will take it up with Mr Barr. In this Parliament there are many people with whom I disagree on some issues. I think the Hon. Jan Burnswoods will find that I will openly work with all honourable members. If David Barr disagrees with me on one issue, be it ocean outfalls—which I have been campaigning against for many years—so be it. However, I will work with him in the many areas about which we agree. Mr Barr said further:

> I concede that structural work has been done on some of the buildings but, overall, the pattern has been one of neglect.
>
> The proposal for the site is that a 45-year head lease be granted to Mawland Hotel Management Pty Ltd. I believe the rationale behind the proposal is to remove the cost of running the quarantine station from the Government's books. The finances of the NPWS in relation to the quarantine station are not at all clear and we do not have adequate information. This site, which covers 31 hectares of probably the best harbour-front land in the world, incorporates 88 buildings. The proposed arrangements are that in the first two years the public of New South Wales will receive zero dollars rental income from the quarantine station.
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> In years three to five the taxpayers of New South Wales will receive $350,000 per year in today's dollars and in years five to ten that $350,000 will be indexed to the consumer price index [CPI]. For 35 years after the tenth year New South Wales taxpayers will receive $500,000, indexed to the CPI. In addition to rent, a turnover fee applies after five years. That provides that when gross receipts rise above $11 million, 10 per cent of any additional amount will be payable. It is proposed in year three to have 90,349 visitors, including people taking tours and school groups. Therefore, every man, woman and child must spend more than $121.75 before the NPWS gets one cent of the profits. Looking at that from a purely financial viewpoint, it is hardly a good deal for the people of New South Wales …
>
> The North Head Quarantine Station commenced operations in 1828. Many buildings which are still intact date back to the nineteenth century and are a vital part of our heritage. They inform us about our public health policies over the years and about our maritime and social history. The site is also important to the indigenous culture. All of those elements intertwined on this one special site make it a special place. I understand that it is one of the largest intact quarantine stations in the world. Yet the proposal is that it be leased out to a private hotel developer for 45 years for an amount not commensurate with the value of the site in real estate terms, let alone in terms of the fabric of its heritage. We should compare this proposal with what happens at Ellis Island in the United States. Ellis Island is run by a non-profit foundation, not by a private hotel developer. All the money raised from the activities of that foundation go back into the heritage areas of Ellis Island.
>
> There has been some talk that a hotel will be built on Ellis Island, but not in the heritage area. The foundation uses whatever profit it makes for the improvement of Ellis Island, which is a significant part of the cultural history of the United States. On the other hand, the Government, which has ignored the quarantine station and underfunded the protection of the building as movable heritage, proposes to lease it out for 45 years to a private hotel developer, a profit-making organisation. That is not conducive to the proper care and control of such an important heritage site. Given what has happened to the important P22 building and the fact that the proposal will change finances and what is possible on the site, I call on the Government and Mawland to withdraw with dignity from this arrangement and provide a better scheme that will keep the site in the care and control of some sort of trust or foundation similar to that on Ellis Island, rather than use it as a private hotel.

The Hon. Greg Pearce: You must be getting a bit short of something to say if you have to quote that Barr fellow.

The Hon. IAN COHEN: Your interjections are becoming somewhat stereotyped as the night progresses. I would have preferred, at this hour of the night, at least a little creativity. I am rather disappointed. The Greens are not opposed to an adaptive reuse of buildings within national parks, provided restoration is carried out on behalf of the National Parks and Wildlife Service and the building is designed to be used for public purposes. Heritage buildings can play an important role in providing facilities for visitors. The key requirement is that the buildings are managed for public purposes as part of the public estate, not for the purpose of private commercial gain. The community has fought a long battle with the Government in relation to the Government's insistence that leasing negotiations be conducted in secret, with the terms of leases designated as commercial in confidence—matters that are of great concern to the Greens, particularly in the north of New South Wales. There is always the pat answer of commercial in confidence when government and local councils are doing deals with developers over the head of the community in relation to very sensitive land.

Similarly, long leases amount to effective privatisation of national parks. The effect of long leases is obvious in the case of Kosciuszko, a subject about which I will speak at length during the forthcoming debate on the ski resorts bill. In the context of this bill the important aspect is that by issuing leases, particularly long leases, the Government encourages real estate speculation in national parks. The permissive leasing regime in the bill should be contrasted with the restrictive provisions in National Parks and Wildlife Regulation 2001.

The Greens support responsible use of national parks. We accept that restrictions need to be imposed on visitors to ensure that the park is adequately protected. However, the Government appears to be tightening

restrictions on individual visitors at the same time as it is removing restrictions on activities that result in large-scale commercialisation. The other aspect of the new leasing arrangements that is of particular concern to the Greens is the scope for leasing of modified natural areas. Most national parks have areas that have been previously used for grazing or other purposes and are gradually regenerating. It is these disturbed areas often that link up the more primary growth areas in the national parks.

Whilst many areas are less than pristine, it is these areas that are left for a period of time undisturbed by grazing animals or humans that are able to regenerate and often act as a buffer around areas that are of great importance in the national parks estate. It is these disturbed areas that slowly, over time, are affected by weed infestation and many problems, but, with proper management, significantly increase the national parks estate and biodiversity in many areas. These areas should not be regarded as suitable for exploitation merely because they are not pristine. Land that remains in totally pristine condition is extremely rare. Many areas that are partly degraded have the potential to be outstanding national parks. An example of that is the Australian Defence Industries [ADI] site. I am thankful there has been some movement, Federally and at State level, in respect of that lad.

On the ADI site many areas have been cleared and degraded. However, it maintains a very high standard of specific forest types, particularly the Cumberland plain woodlands and many accompanying species of flora and fauna. This type of ecosystem is diminishing to dangerous levels by virtue of its proximity to the fringe of Sydney, which places it under the developer's hammer. Another aspect of the bill that is of particular concern is the downgrading of the importance of the advisory council. I have a copy of a personal letter addressed to the Minister Debus from Dr Alan Lloyd, a past member of the National Parks and Wildlife Service Advisory Council, which states inter alia:

> As I understand the bill, the Advisory Council is being seriously downgraded from its role in preparing plans of management and advising the Minister on matters of environmental concern to one described vaguely as having an overview role.
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> The bill also appears to remove the right of the Advisory Council to direct the Director-General to provide information considered necessary for management purposes. The proposed changes are basic to the functioning of the Advisory Council. This council, through its talented membership from such organisations as CSIRO, universities, the Australian Museum, peak environmental groups, rural interests, et cetera, contributed substantially to the preparation of more effective management plans. In addition, the Advisory Council provided an independent source of information, not always available to the Minister through the Director-General.
>
> Surely what is needed is to strengthen the Advisory Council, not the Director-General. The Advisory Council should be reconstituted as an independent board, with responsibility for reporting directly to the Minister and Parliament. It should have full powers to require the Director-General to provide fully documented information on all matters of administration.
>
> To put it on a more personal basis, it seems to be that you are diminishing the power of the Advise you Council and transferring power to the Director-General.

The effectiveness of the advisory council will be seriously undermined because of the bill. It takes away the role of the council of reviewing draft management plans, public submissions thereon, and advising the Minister on the content of the plans. It takes away the provision that gives the council a general power to require the director-general to provide information. It delineates a vague and general role for the advisory council. By reducing the effectiveness of the council the Government will reduce the scope for public scrutiny of its management of national parks. Without a strong, independent council the director-general will be less accountable and more able to make secret deals for commercialisation of the parks.

Next I want to refer to the provisions that impose new concurrence requirements. Proposed new section 47MA places a concurrence requirement on the Minister administering the Water Management Act and the Minister administering the Mining Act in relation to wild rivers declaration. The Minister for Forestry is given new concurrence powers in relation to the reserve establishment over Crown lands. In the context of many other bills, the Greens and other crossbenchers have moved amendments to give the Minister for the Environment a concurrence role in the development assessment process for projects that affect important habitats or that otherwise significantly impact the environment. The Government has consistently opposed new concurrence requirements. It claims that concurrences unreasonably add to the cost and complexity of the decision-making process.

Why then is the Government proposing extensive new concurrence requirements in the bill? Why does the bill give Ministers in development portfolios the power of veto in relation to environment decisions, when the Government refuses to give the Minister for the Environment the power of veto in relation to development decisions? The bill makes some changes to provisions that apply to objects that are of cultural importance to Aboriginal people. However, the Greens have concerns about the appropriateness of regulating activities that

impact significantly on Aboriginal people within the context of National Parks and Wildlife legislation. A draft response to the Minister, regarding the National Parks and Wildlife Amendment Bill, was prepared by Mette Kirk, Natural Resource Officer, Land Rights Unit. It was dated 5 December 2001 and it stated:

> 1. (*point 6*) NSWALC strongly commends the Minister in his support of assigning the Aboriginal Cultural Heritage Advisory Council [ACHAC] a strategic role in the heritage impact assessment process and the plans of management process. NSWALC sees this of such importance that it should be explicitly spelt out in the bill, rather than leaving it implicitly within the broadly stated role of the ACHAC …
>
> 2. (*point 8*) NSWALC recognises that section 90 represents a tremendous improvement for the protection of Aboriginal cultural heritage. However, we maintain that the penalties for damaging Aboriginal cultural objects or places are not in proportion to the penalties for harming protected fauna (section 98) and that this indicates that less value is placed on Aboriginal heritage. This is insulting to Aboriginal people, as ancestral remains and cultural objects have an enormous spiritual and cultural significance to Aboriginal people. On this background, NSWALC strongly advises that the penalties for Aboriginal heritage must be *at least* equal to penalties for harming fauna.
>
> 3. (*point 8*) Again, while section 90 most certainly is an improvement from the provision of proving "knowingly", there is still scope for limiting "grey-zones" in interpretation of the Amendment Act. NSWALC is of the opinion that the word "shows" (in section 90, 1(c) (page 58)) leaves room for misinterpretation of what types of documentation is to be presented in the event of prosecution.
>
> 4. (p*oint 11*) NSWALC strongly encourages that the provision of 72AA (5) (c) (ii) be omitted from the bill, as it infers that Aboriginal traditional practices may be of threat to threatened species. NSWALC regards this singling out of Aboriginal people as insulting, and wish to draw attention to the fact that Aboriginal people are the true custodians of the land, having managed land and species sustainably for more than 60,000 years. The most threatening event to impact on the species of Australia has been white settlement.

The bill provides that the consent authorities for destruction of Aboriginal objects are the Director-General and the Director of the Heritage Office. This is paternalistic and fails to recognise the need for Aboriginal control over important cultural objects. New section 72AA (5) (c) (ii) is insulting to Aboriginal people and, for that matter, to the Greens. It appears to be the only provision in the bill that deals with threatened species. It refers to the need to limit activities due to impact on threatened species from traditional hunting and gathering. Why is the Government targeting the activities of Aboriginal people in the context of threatened species, while it ignores the inevitable impacts that will occur from commercial activities?

The legislation contains new management principles that will guide the formulation of management plans. A key management principle is sustainable visitor use, but that term is not defined. What is meant by "sustainable visitor use"? The ski resorts that are permitted in Kosciuszko National Park means that the Government interprets massive urban development as sustainable visitor use. Without a clear definition of these terms in the management principles there is insufficient guidance for the NPWS in administering the Act. The bill proposes to remove provisions of the Act related to wilderness and it fails to include the management and conservation of wilderness areas in the proposed statement of objects in the Act. Although the NPWS will continue to have responsibilities for wilderness under the Wilderness Act, its role as the primary State agency for wilderness management and conservation must be stated in the National Parks and Wildlife Act.

While we still have magnificent areas of wilderness it is incumbent on the Government to protect them—they are rare. They are extremely significant and fragile; they need the protection of government. If we move in this direction we will end up doing away with the concept of wilderness and we will have only national parks; we will lose yet another layer of extremely important conservation in New South Wales. The bill fails to take the opportunity to progress wild and scenic rivers initiatives promised earlier by the Government. Mr Keith Muir, of the Colong Foundation, sent me a note. It states:

> The NSW Government's 1995 and 1999 wilderness election policy promised legislation to protect and manage Wild and Scenic rivers and vest the responsibility for planning and management of these river systems in the National Parks and Wildlife Service.
>
> The 1996 Annual Conference of the Nature Conservation Council unanimously resolved to call on the Government to expedite such legislation that would permit community groups to nominate high conservation value rivers for protection.
>
> In May 1996, Total Environment Centre convened the Heritage Rivers Coalition to develop a community-based legislative proposal. The Coalition had representatives comprising Colong Foundation for Wilderness, Total Environment Centre, Nature Conservation Council, the inland Rivers Network, the Confederation of Bushwalking Clubs, National Parks Association of N.S.W., with advice from the Environmental Defenders Office.
>
> The legislation … is based on this work and defines the process by which wild and heritage river areas are nominated by the public, identified by the Director-General of the NPWS, assessed and reported on by the NPWS and declared by the Minister.
>
> The above processes essentially follows the Wilderness Act 1987 model. Since 1974 there has been wild and scenic river provisions in the National Parks and Wildlife Act but not one river has been protected under these provisions. The wild and heritage river will ensure that these outstanding natural resources will be assessed, identified, protected and managed.

> Under this legislation Wild River Areas are near-pristine, unregulated streams that flow through natural lands or lands that can be rehabilitated to that condition, while Heritage River Areas seek to protect waterbodies with regulated water flows that contain important wild values. For example, regulated waterbodies in western NSW that have adjoining parts of the catchment in a natural condition could be embraced in this latter category, such as River Red Gum forest environments and the Macquarie Marshes. A Heritage River Area may adjoin another heritage or wild river area.
>
> This legislation is needed because nothing has been done in a generation to protect wild rivers. Without this legislation these precious rivers will be lost. The Government proposal simply throws scenic rivers out of the current Act saying the concept is outmoded. Heritage rivers reinvests the concept with an ecological focus rather than a scenic emphasis. Again many regulated streams contain essential ecological values that merit protection and this legislation will ensure these values are protected.

I foreshadow that I will move detailed amendments in relation to this issue. I hope that the Government will support greater protection for these last remaining wild streams in New South Wales. Without major amendments, the bill represents a real threat to the future of the national park estate. It is a capitulation to people who see national parks as nothing more than a pleasant backdrop for next weekend's four-wheel drive trip. The people of New South Wales, other species and future generations deserve more from a government that claims to be green. I oppose the bill.

Debate adjourned on motion by the Hon. Peter Primrose.

SPECIAL ADJOURNMENT

Motion by the Hon. Ian Macdonald agreed to:

That this House at its rising today do adjourn until Tuesday 11 December 2001 at 11.00 a.m.

ADJOURNMENT

The Hon. IAN MACDONALD (Parliamentary Secretary) [12.18 a.m.]: I move:

That this House do now adjourn.

ABDUCTION OF NABELLA EARTH

The Hon. IAN COHEN [12.18 a.m.]: I raise a sad matter in this House concerning personal friends of mine. An Australian woman named Angela Earth is appealing for help in locating her five-year-old daughter, Nabella, believed to be hidden in Lebanon. Nabella's father, Said Reda, took her to Lebanon for a two-week holiday in 1999 on the pretext of visiting his mother and other family after his father had died. At the time Nabella was 2½ years old. When they did not return Angela travelled to Lebanon and went through the Shi'ite Muslim courts to try to gain custody of Nabella. All proceedings were conducted in Arabic though the mother speaks only English. Despite this and other obstacles, the court granted custody to the mother. The case was then taken to the highest Shi'ite court, the Supreme Court, by the father of the child, Angela's former partner. The three judges again found in Angela's favour. Jennifer Degeling, Principal Legal Officer, International Family Law Association, Attorney-General's Department, stated:

> To the best of our knowledge, Angela Earth is the first Australian woman to have obtained an order from a Lebanese court enabling her to have custody in Australia in circumstances where the Commonwealth has funded proceedings under the Overseas Custody (Child Removal) Scheme. We see this as a positive step.

There is now an arrest warrant for Said Reda in Lebanon. In January Angela made an emotional appeal on Lebanese television offering a reward for Nabella's return. Most recently, the Lebanese Prosecutor-General, Judge Addoum, has said he believes Said Reda is hiding with forces outside the law and that the Lebanese police are unable to find or arrest him. Apart from denying Nabella her mother, Said has also not enrolled her in school. Angela said:

> It feels more and more urgent to release Nabella from a life of hiding and restore her human rights in the sunshine and peace of Australia. I feel it is vital and urgent that this story be broadcast to the wider community. The people of Australia need to be aware of the present dangers.

Tragically, every weeks two Australian children are abducted within or from Australia. In Melbourne today a forum is being held to set up a support network for parents who find themselves in such tragic situations. I knew Said Reda when he was a teacher in Byron Bay, a yoga practitioner and, to all intents and purposes, an alternative person who had been living in Australia for about 15 years. He had a family in Australia. Following problems in his relationship he has taken the child to Lebanon and gone through a number of significant processes in an attempt to maintain her. However, the courts in Lebanon have found against him and he has gone into hiding in the south of Lebanon and is being protected by forces outside the law.

It is a very distressing time for Angela Earth and her entire family. They have expended huge amounts of money and effort. Angela bravely went alone to Lebanon to fight for the release of her child. I have spoken to the Hon. Eddie Obeid about the matter, and the Hon. Meredith Burgmann, the President of this House, has made representations on Angela's behalf. The Lebanese Muslim Association and many other organisations I have contacted have been extremely helpful. They have been caring and concerned about the plight of mother and child. Keysar Trad, Vice President of the Lebanese Muslim Association, stated in a personal letter to me in response to my representations:

> **Statements from the Mufty and from the Shiite community re. Nabella.**
>
> **The Mufty of Australia and New Zealand His Eminence, Shaykh Taj Aldin Elhilali** expressed his complete sympathy for **Nabella's** mother **Ms. Angela Earth**. He stated that **Mr. Reda** is in breach of the judgment of the Sharia Court and as such, has committed a criminal offence by abducting his daughter. He also added that denying his estranged wife the right of custody as awarded by the court is an act that lacks compassion. He added that the messenger of Allah, Muhammad, peace and blessings upon him said: "*Anyone who denies a mother from her child will be denied from his loved ones on the day of judgment."*
>
> I also discussed the issue with **Shaykh Jihad Ismail** who spoke to me on behalf of the Shiite community. **Shaykh Jihad** endorses the sentiments of **His eminence** the Mufty and expressed his total sympathy for the mother.
>
> On behalf of His eminence the **Mufty Shaykh Taj Aldin Elhilali, Shaykh Jihad Ismail** and myself, we appeal to those who can help, to do what they can to assist **Ms. Earth** be reunited with her daughter. [*Time expired.*]

GLEN INNES AGRICULTURAL RESEARCH AND ADVISORY STATION

CENTENARY OF THE BIRTH OF WALT DISNEY

The Hon. AMANDA FAZIO [12.25 a.m.]: Tonight I inform the House of an important event I attended on Saturday 3 November: the centenary celebrations of the Agricultural Research and Advisory Station on the Wellingrove Road at Glen Innes. Everyone in the area was invited to visit the station on its open day and to inspect displays of old machinery, working horses, blade shearing and direct descendants of the original merino sheep imported to Australia by John Macarthur. It was heartening that about 600 local people attended the open day.

The research station was gazetted in 1901 and established in 1902 as the Experiment Farm, Glen Innes, on a portion of an area which was used as a stock reserve. It was established essentially to study the agricultural and pastoral problems of the New England Tablelands, to produce improved varieties and strains of agricultural and pastoral plants, and to improve methods of culture and management of crops, pastures and livestock. In the first few years of the station most work was confined to clearing, fencing and other improvements as the land was heavily timbered. Much of the early groundbreaking work was done by bullock teams, and subsequent cultivation was with horses using stock derived from a Clydesdale stud that was set up on the farm in 1904 and was a feature of the station until 1948. The stud was very well known and exhibited the champion Clydesdale at the Sydney show in 1936. At the opening day were some draughthorses from the local prison farm, which has a quite innovative program of teaching horse skills to inmates. The staff and the inmates working in that program attended that day in a voluntary capacity, providing activities to entertain children.

Since the early days research has been carried out with some significant results to benefit the farming community in the following disciplines: horses, sheep, beef and dairy cattle, pigs, bees, poultry, wheat and oats, potatoes, maize, fruit and nuts, pasture legumes and grasses, tobacco, vertebrate pests and weeds. During the period 1913 to 1942 the station was used as a training centre to instruct young men in practical farm work and then to place them on farms requiring labour. Included in these groups of students were the "Dreadnought Boys", who were English boys brought to Australia to undergo training and then placed on local farms when considered sufficiently proficient. Three of the original "Dreadnought Boys" attended the dinner that night. It was interesting that Tony Windsor also attended the dinner in his capacity as the candidate for New England. His attendance was greatly appreciated by those present.

The Hon. Greg Pearce: Did the draughthorses attend?

The Hon. AMANDA FAZIO: No, but you could have come. The past few years has seen a decline in the number of staff located at the research station, but the level of research activity has always been maintained. At present it is focusing on the main agriculture of the district, namely the grazing animal and what it eats. Recent and current projects include white clover breeding, selection of cattle for growth rate, backgrounding of feeder steers, evaluation of lotus and tall fescue varieties, oat and soybean variety trials, lamb marketing alliances and producing lambs to meet market specifications. I would like to commend Phillip Dawes, the manager of the research station, for a very successful day. I encourage any members who happen to be in the area to have a look at this very interesting research station.

Yesterday, 5 December, was an anniversary that passed generally without notice—the 100th anniversary of the birth of Walt Disney. To get a full understanding of the impact that he has had on international culture, I recommend honourable members look at an article by Mark Steyn entitled "One man and his mouse" in the current issue of the *Spectator*. I read this interesting quotation:

> Among the many revealing items uncovered at an abandoned al-Qa'eda training camp near Jalalabad the other day was this application letter from Damir Bajrami, a Kosovo Albanian: 'I am interested in suicide operations. I have Kosovo Liberation Army combat experience against Serb and American forces. I need no further training. I recommend suicide operations against parks like Disney.' …
>
> To be a brand name in Jalalabad, that would have impressed Walt.

That is because the main focus of Walt Disney's aims, after he got his animators to devise characters like Mickey Mouse, was his franchise activities. To honourable members who do not mind a not too complimentary precis of the impact on western culture and international culture of Walt Disney, I would recommend that article.

WYONG HIGH SCHOOL

The Hon. PATRICIA FORSYTHE [12.30 a.m.]: I draw to the attention of the House efforts made by the community of Wyong High School to ensure the future viability of that school. The school needs the support of the Government if it is to achieve its ambitions. Wyong High School is very concerned that as a consequence of the narrowing of the school's intake boundaries following the opening of the Wadalba High School, the year 7 intake, which was 200 students last year, was only 99 this year and next year is projected to be 115. The school is concerned that, allowing for the school's current retention rates for years 11 and 12, within a few years its enrolment will be considerably reduced from that for which it was built. Sydney schools with a student population larger than Wyong will have been closed in a few years.

The school is also concerned that it is situated on a site described recently by a member of the local chamber of commerce as valuable real estate. Honourable members would understand that the school community is somewhat nervous about the school's long-term future. The school is at the heart of the Wyong community and it has local support. The parents and citizens association and the school council have been positive and proactive and have sought community input for the future of the school. The consensus is that Wyong High School should become a part-selective school. The community has put together a number of reasons for that. Principally the community noted that there is no selective high school between Merewether and Gosford. Wyong enjoys excellent transport facilities, and the school is close to Wyong railway station, which provides a very good rail link.

Wyong Public School has an opportunity class [OC] and this year only 18 of its 30 students gained entry to Gosford High School. I said "only 18" because all 30 students would have been reasonably aspirational about going to a selective school, namely at Gosford. The Wyong parents told me that Gosford High School received 1,200 applications for the 180 places. Many students would have been disappointed. The parents say that the Government should consider the likely destination of the 12 students who did not get to Gosford High School from the OC alone. Many of those students are now planning to leave the Government system. Parents are looking for choice and for variety, and are likely to access the non-government schools on the Central Coast.

The parents and citizens association and the school council believe that their school has an opportunity to demonstrate its excellence, and they want the parents to be able to consider Wyong High School when they are making choices about the future destination of some of the primary students. The parents believe that if the school was part-selective—that is, about three classes, approximately 90 students—it would have something to offer students on the Central Coast and will be broadly attractive to the region. It would probably be able to draw students from the southern end of Lake Macquarie, many of whom now travel all the way to Gosford. Other options have been put to the school. Recently the school council met with the district superintendent and they were interested in his proposal for a senior-junior split, literally with a fence through the school. The senior school would be treated as a separate senior college with stronger links to TAFE.

Wyong High School believed that it was going to be a senior school when suggestions for the reorganisation of schools on the Central Coast was discussed. The school community was very surprised when they were left out of any of the discussions on the proposals. The school community has now formed the view that perhaps the Government has an agenda for the closure of Wyong High School, and I will write to the new Minister for Education and Training seeking clarification on behalf of that community. Last Monday afternoon I met with the parents and citizens association and the school council, I listened to their concerns and indicated

my support. I believe that school communities have a right to express their point of view and that as long as they can provide a strong and viable case they should be listened to. Wyong High School has the support of the local community and the parents. The school offers a realistic option, particularly since the part-selective option has been one option granted to some schools as part of the reorganisation under the Building the Future plan. [*Time expired.*]

COALITION FEDERAL ELECTION CAMPAIGN

The Hon. DAVID OLDFIELD [12.34 a.m.]: There has been a great deal of posturing on why the Federal Coalition won last month's Federal election. There are no perfect campaigns. Some things go wrong, some things go right. Exactly how many things go right and how right they go, and how many things go wrong and how wrong they go, determines the outcome. It would be silly not to consider the role also played by luck. Being on top of things means any good luck will be a bonus rather than a necessity. People should never count on having good luck. When bad luck strikes, speed in accurately responding can make the difference but sometimes no amount of spin-doctoring will adequately deal with the damage bad luck brings.

The *Tampa* was good luck for the Coalition and bad luck for Labor. On 30 August I issued a press release headed "Allah's gift to Howard". I suggested John Howard should be praising Allah, for the infidels descending on our nation had given him the beginning of what he needed. The press release also explained that one of my goals when creating One Nation through Pauline Hanson's name and symbol was to push the Liberal Party away from the left. I suggested that One Nation had not so much changed John Howard but, rather, helped create the atmosphere in which John Howard could simply be himself.

The release also described some simple nationalistic steps the Government needed to take, and suggested that doing so would cause John Howard's popularity to soar. The overall thrust of the release was clear in presenting that the Liberals had been given the chance to win. It was good luck, not sound economic management. The Liberals were handed the chance for victory and they managed the opportunity reasonably, but I suspect they were held back from dealing with the issue in a more superior manner by the left-wing bleeding hearts in their party, who probably needed to be gagged and blindfolded so they would not give away the Liberals' only chance to win.

The further influencing factor of the events of 11 September is something I do not wish to break down as it is not my desire to apply the coldness of political mathematics to so terrible a human tragedy. Whether people fail or succeed, they must honestly identify the reasons behind the result. It is my experience in politics and in other endeavours that accurate assessments are often impeded by a delusional belief in one's own abilities. The desire to see yourself as better or more than you are is common in many pursuits, especially amongst supposed high achievers. Sometimes results are seen a certain way as a consequence of ideology. Those who delude themselves as to how something was achieved are truly imbeciles.

When I was teaching scuba diving and, most particularly, when I was teaching potentially dangerous specialist ceilinged environment diving such as deep, wreck and cave diving, I developed a little phrase to simply explain the aspect of uncontrolled ego. The phrase was "Ego is the door that closes itself to learning." The concept was: "Don't be quick to decide your abilities got you out of trouble because that blocks your capacity to learn what you did wrong and how much of a hand luck played in your survival." On 13 November I issued a press release headed "Howard's One Nation inspired win demands more attention". In that release I wrote:

> John Howard's election victory had little more than nothing to do with anything other than a One Nation style stand on the Tampa and associated issues of national security including the assault on Australia by muslims in the form of illegal immigrants posing as refugees.

John Howard and the Coalition must at least internationally recognise and acknowledge why they were able to turn a certain and humiliating defeat into an impressive victory. Accepting the truth and taking appropriate action based on the facts will further improve the Liberals' position and lead to election victory number four. The majority of Liberal votes came from people who were going to be voting Liberal regardless of the *Tampa* and related matters, but the votes that made the difference between the impressive victory and a humiliating defeat were mostly secured through a tough stand on the illegal immigrants booking their criminal passage on boats to Australia. When those concerned consider their roles and the result of this last Federal election, in their own interests and in the interests of other Australians, they would do well to remember that ego is the door that closes itself to learning.

POLICE NUMBERS

The Hon. GREG PEARCE [12.38 a.m.]: Tonight I would like to draw the attention of the House to the true position about police numbers in this State. The Government seems to be confused about its promise at the time of the March 1999 election to place an extra 1,000 police on the streets from 2003. Today the Minister for Police was quoted as saying that the State Government was on track to meet its promise in 1999 of increasing police numbers from 13,407 to 14,407 by December 2003. Tonight I do not intend to address the timing of the promise as to which part of 2003 the promise is supposed to be met. However, I shall begin by noting that the Minister for Police seems again to be twisting the figures, or not understanding them, because as at March 1999, according to the New South Wales Police Service Freedom of Information Unit, the strength of the New South Wales Police Service was 13,521.

The Minister for Police has now attempted to include in the Government's promise not actual police numbers but authorised police strength. In March 1999 authorised police strength was 13,407 and the Minister is trying to use that figure instead of the actual number of police, which was 13,521. Since then the number of police has increased. According to the police strength report released by the New South Wales Police Department Freedom of Information Unit, as at 31 October the total number of police had risen to 13,545, which is a grand increase of 24. That is still a long way behind the Government's target of increasing police numbers by 1,000.

A simple mathematical calculation using actual police numbers rather than notional authorised police strength, which the Minister prefers to use, reveals that the new target should be 14,521. Therefore, based on the latest figures from the Police Service, the Government is 976 police officers behind its promised number of 1,000 extra police. If we examine the figures a little more closely we will find the Premier's latest attempt to muddy the waters. He stated yesterday that there are record numbers of police on the beat in New South Wales, but that attempt to move the goalposts again will not succeed. The number of chief inspectors has increased significantly from 31 in March 1999 to 85 in October 2001. The number of inspectors has also increased from 221 in March 1999 to 405 on 31 October 2001. It will be interesting to see where the Premier twists next and which figure the Minister for Police will try to use to muddy the waters regarding the Government's simple promise of 1,000 extra police, which it should be able to deliver. This means that 14,521 police should be working for the people of New South Wales by March 2003.

Motion agreed to.

House adjourned at 12.42 a.m., Friday, until Tuesday 11 December 2001 at 11.00 a.m.